

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline	)	PS Docket No. 23-5
	)	
Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications	)	PS Docket No. 15-80
	)	
Implementation of the National Suicide Hotline Improvement Act of 2018	)	WC Docket No. 18-336
	)	

**REPORT AND ORDER**

**Adopted: July 20, 2023**

**Released: July 21, 2023**

By the Commission: Chairwoman Rosenworcel and Commissioner Starks issuing separate statements.

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**I. INTRODUCTION**

1. On July 16, 2022, Federal Communications Commission (Commission) rules went into effect establishing 988 as the universal telephone number for the 988 Suicide & Crisis Lifeline (988 Lifeline or Lifeline), which is a national network of more than 200 crisis centers that helps thousands of people overcome crisis situations every day. Since then, the 988 Lifeline has answered nearly five million calls, chats, and texts to the Veterans Crisis Line and other crisis centers across the country.<sup>1</sup>

<sup>1</sup> See SAMHSA Substance Abuse and Mental Health Services Administration, 988 Suicide & Crisis Lifeline, 988 Suicide & Crisis Lifeline Adds Spanish Text and Chat Service Ahead of One-Year Anniversary (July 13, 2023), (continued....)

Dialing “9-8-8” now serves as a crucial lifeline for people in need of immediate help. The ability to call or text 988 and reach help on a timely, consistent basis is of utmost importance to provide support and care to those who may be experiencing a suicidal crisis or mental health-related distress.

2. Today, we adopt rules to strengthen this vital service by ensuring that when there is a communications service outage that potentially affects people’s ability to reach the 988 Lifeline, the Commission and those who provide life-saving 988 crisis intervention services receive timely and actionable information. With this information, the Substance Abuse and Mental Health Services Administration (SAMHSA), the Department of Veterans Affairs (VA), and the 988 Lifeline administrator can provide the public with notice of outages impacting 988 services, and how they can access the 988 Lifeline and Veterans Crisis Line despite the outage. SAMHSA, the VA, and the 988 Lifeline administrator can also take steps to reroute 988 calls to available crisis centers and take other steps to reduce the amount of time that individuals would need to wait before they receive assistance. This notice will allow SAMHSA, the VA, and the Lifeline administrator to continue meeting the immediate health needs of people in suicidal crisis and mental health distress. The Commission will also be able to improve 988 reliability by using this information to analyze outage trends and identify best practices to prevent and mitigate outages.

## II. BACKGROUND

3. According to the Centers for Disease Control and Prevention (CDC), the suicide rate in this country increased by 35% from 1999 to 2018.<sup>2</sup> In 2021, suicide was a leading cause of death in the United States for people aged 10 to 64 and the second leading cause of death among people aged 10-14 and 20-34.<sup>3</sup> Suicide claimed the lives of over 48,000 Americans in 2021, resulting in about one death every 11 minutes.<sup>4</sup> For every one person who dies by suicide annually, 316 people seriously consider suicide.<sup>5</sup>

4. Suicide also disproportionately impacts various at-risk populations. In 2020, there were 6,146 Veteran suicides – an average of 16.8 per day – and adjusting for population age and sex differences, the suicide rate for Veterans was 57.3% greater than for non-veteran U.S. adults.<sup>6</sup> A large proportion of youths ages 13-24 have attempted suicide, with the proportion particularly high among Native/Indigenous youths or youths who are members of certain minorities. LGBTQ youth are “four times more likely to seriously consider suicide, to make a plan for suicide, and to attempt suicide versus their peers.”<sup>7</sup> Among LGBTQ youth, twelve percent of white youth attempted suicide compared to 31% of Native/Indigenous youth, 21% of Black youth, 21% of multiracial youth, 18% of Latinx youth, and

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<https://www.samhsa.gov/newsroom/press-announcements/20230713/988-suicide-crisis-lifeline-adds-spanish-text-chat-service-ahead-one-year-anniversary>.

<sup>2</sup> Holly Hedegaard, Sally C. Curtin, and Margaret Warner, *Increase in Suicide Mortality in the United States, 1999-2018*, National Center for Health Statistics (NCHS) Data Brief No. 362, at 1 (Apr. 2020), <https://www.cdc.gov/nchs/data/databriefs/db362-h.pdf>.

<sup>3</sup> Centers for Disease Control and Prevention, *Suicide Prevention*, <https://www.cdc.gov/suicide/> (last visited June 12, 2023). See also The Trevor Project, *Facts About LGBTQ Youth Suicide* (Dec. 15, 2021), <https://www.thetrevorproject.org/resources/article/facts-about-lgbtq-youth-suicide/>.

<sup>4</sup> Centers for Disease Control and Prevention, *Facts About Suicide*, <https://www.cdc.gov/suicide/facts/index.html> (last visited June 12, 2023).

<sup>5</sup> 988 Suicide & Crisis Lifeline, *Suicide Prevention by the Numbers*, <https://988lifeline.org/by-the-numbers/> (last visited June 12, 2023).

<sup>6</sup> U.S. Dept. of Veterans Affairs, Veterans Health Administration, Office of Mental Health and Suicide Prevention, *National Veteran Suicide Prevention Annual Report* at 7 (2022), <https://www.mentalhealth.va.gov/docs/data-sheets/2022/2022-National-Veteran-Suicide-Prevention-Annual-Report-FINAL-508.pdf>.

<sup>7</sup> The Trevor Project, *Estimate of How Often LGBTQ Youth Attempt Suicide in the U.S* (Mar. 11, 2021), <https://www.thetrevorproject.org/research-briefs/estimate-of-how-often-lgbtq-youth-attempt-suicide-in-the-u-s/>.

12% of Asian/Pacific Islander youth.<sup>8</sup> Suicide rates are higher in rural, less densely populated areas.<sup>9</sup> A 2021 survey found that adults with disabilities are three times more likely to report suicidal ideation in the past month compared to persons without disabilities.<sup>10</sup>

5. The 988 Suicide & Crisis Lifeline (988 Lifeline) is a 24/7 hotline that can be accessed by dialing 9-8-8 or by directly dialing a toll-free number (1-800-273-TALK). The 988 Lifeline is overseen by the Substance Abuse and Mental Health Services Administration (SAMHSA), a public health agency housed in the U.S. Department of Health and Human Services, and administered by Vibrant Emotional Health (Vibrant), a New York-based mental health non-profit (988 Lifeline administrator), under a grant from SAMHSA. The 988 Lifeline, is “available to people in suicidal crisis or emotional distress at any time of the day or night.”<sup>11</sup> Since its inception in 2005, the 988 Lifeline has received over 23 million calls from people in distress looking for support.<sup>12</sup> In May 2023, 262,920 calls, 68,507 chats, and 71,067 texts (totaling 402,494 contacts) were routed to a 988 Lifeline counseling center.<sup>13</sup> According to SAMHSA, “the Lifeline works. . . . Almost 98% of people who call, chat or text the 988 Lifeline get the crisis support they need and do not require additional services in that moment.”<sup>14</sup>

6. Responding to a Congressional directive,<sup>15</sup> the Commission adopted rules establishing 988 as the national suicide prevention and mental health crisis hotline and required all telecommunications carriers, interconnected Voice over Internet Protocol (VoIP) providers, and one-way VoIP providers (those that permit users generally to receive calls from, or terminate calls to, the public switched telephone network) to make any network changes necessary to ensure that people were able to dial 988 to reach the 988 Lifeline by July 16, 2022.<sup>16</sup> The Commission subsequently expanded the

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<sup>8</sup> The Trevor Project, *National Survey on LGBTQ Youth Mental Health 2021*, <https://www.thetrevorproject.org/survey-2021/> (last visited Dec. 15, 2022).

<sup>9</sup> See Centers for Disease Control and Prevention, *Disparities in Suicide*, <https://www.cdc.gov/suicide/facts/disparities-in-suicide.html> (last visited June 12, 2023) (2021 suicide rates based on population density range from 11.6 per 100,000 in large central metropolitan areas to 21.7 per 100,000 in noncore, non-metro areas); see also Letter from Brandon E. Presley, Commissioner, Northern District, Miss. Public Service Commission, to Hon. Ajit Pai, Chairman, FCC, WC Docket No. 18-336, at 1 (Feb. 26, 2020) (expressing concern about how the suicide rates are affecting the health and welfare of rural communities throughout Mississippi and across the nation).

<sup>10</sup> Mark É. Czeisler, Amy Board, JoAnn M. Thierry, Charles A. Czeisler, Shantha M.W. Rajaratnam, Mark E. Howard, and Kristie E.N. Clarke, *Mental Health and Substance Use Among Adults with Disabilities During the COVID-19 Pandemic — United States, February–March 2021*, Morbidity and Mortality Weekly Report, Centers for Disease Control and Prevention, 70(34), at 1142 (Aug. 27, 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7034a3-H.pdf>.

<sup>11</sup> See National Suicide Prevention Lifeline, *Our Network*, <https://988lifeline.org/our-network/> (last visited Dec. 9, 2022) (explaining that the Lifeline “is a national network of over 200 local crisis centers, allowing the Lifeline to provide local resources with innovative best practices and quality care across the United States”).

<sup>12</sup> 988 Suicide & Crisis Lifeline, *Suicide Prevention By the Numbers*, <https://988lifeline.org/by-the-numbers/> (last visited June 12, 2023).

<sup>13</sup> SAMHSA Substance Abuse and Mental Health Services Administration, 988 Suicide & Crisis Lifeline, *988 Lifeline Performance Metrics*, <https://www.samhsa.gov/find-help/988/performance-metrics#answered> (last visited June 12, 2023). These figures exclude the 66,529 calls offered to the Veterans Crisis Line.

<sup>14</sup> SAMHSA, *988 Suicide & Crisis Lifeline, 988 Frequently Asked Questions, Does calling/texting/chatting the 988 Lifeline really help?*, <https://www.samhsa.gov/find-help/988/faqs> (last visited June 12, 2023).

<sup>15</sup> See National Suicide Hotline Designation Act of 2020, Pub. L. No. 116-172, 134 Stat. 832 § 3 (2020) (adding subsection (e)(4) to section 251 of the Communications Act of 1934, as amended (the Act)).

<sup>16</sup> 47 CFR § 52.200; *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Report and Order, 35 FCC Rcd 7373, 7385-92, paras. 28-36 and 41-45 (2020) (*988 Report and Order*).

availability of critical mental health and crisis counseling resources by requiring covered text providers<sup>17</sup> to allow callers to reach the 988 Lifeline by texting 988.<sup>18</sup> The Commission's rules require covered text providers to route covered 988 text messages to the 988 Lifeline's current 10-digit number,<sup>19</sup> and the Wireline Competition Bureau granted a waiver to allow covered text providers to route covered 988 text messages<sup>20</sup> to the Lifeline using the short code protocol without translation to the Lifeline's current toll free access number. This allows return texts from the Lifeline to appear on consumer devices as coming from 988 rather than 1-800-273-TALK.<sup>21</sup>

7. *Contacting the 988 Lifeline.* When someone dials 988, the call is routed by the calling party's originating service provider (OSP) – such as a cable, satellite, wireless, wireline, or interconnected VoIP provider – to 1-800-273-8255, which is the toll free access number for the 988 Lifeline and Veterans Crisis Line.<sup>22</sup> Once a call is received at the 988 Lifeline, the caller encounters an interactive voice response system, where the caller selects routing options. A caller may press “1” for Veterans Affairs, press “2” for services in Spanish, or stay on the line for services in English. The call is then routed to the Veterans Crisis Line or the closest accredited local crisis center according to the caller's area code, and if the closest center is unable to respond due to call volume, is experiencing a disruption in service, or the center has temporarily removed itself from the network, the system automatically routes callers to a backup center.<sup>23</sup> In addition to taking calls and text messages, 30 crisis centers answer online chats on a 24/7 basis.<sup>24</sup>

8. *Outage Reporting and Notification to 911 Special Facilities.* Promoting network reliability is a critical priority for the Commission. To that end, the Commission's existing rules require certain service providers to report and send notifications about network outages. Under Part 4 of the Commission's rules, cable, satellite, wireless, wireline, interconnected VoIP and other communications providers are required to file reports with the Commission when they experience outages to their communications services that meet certain magnitude and duration thresholds.<sup>25</sup> Providers must report the outage in the Commission's Network Outage Reporting System (NORS) within 120 minutes of discovery of the outage, which must include: the name of the reporting entity; the date and time of onset of the outage; a brief description of the problem; service effects; the geographic area affected by the outage; and a contact name and contact telephone number by which the Commission's technical staff may

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<sup>17</sup> For purposes of the 988 rules, a covered text provider “includes all CMRS providers as well as all providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones.” 47 CFR § 52.201(c)(3).

<sup>18</sup> *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Second Report and Order, 36 FCC Rcd 16901, para. 2 (2021) (*Text to 988 Second Report and Order*); see also 47 CFR § 52.201.

<sup>19</sup> 47 CFR § 52.201(a).

<sup>20</sup> A “covered 988 text message means a 988 text message in SMS format and any other format that the Wireline Competition Bureau has determined must be supported by covered text providers.” 47 CFR § 52.201(c)(2).

<sup>21</sup> *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Order, DA-22-519 (WCB 2022).

<sup>22</sup> 47 CFR § 52.200(b). The Commission's rules do not require multi-line telephone systems (MLTS) to allow callers to reach the Lifeline by dialing 988 and no other digits. *988 Report and Order*, 35 FCC Rcd at 3795, n.187.

<sup>23</sup> *The Substance Abuse and Mental Health Services Administration Report to the Federal Communications Commission*, WC Docket No. 18-336, CC Docket No. 92-105, at 5 (Feb. 7, 2019) (SAMHSA Report).

<sup>24</sup> *Id.*

<sup>25</sup> 47 CFR § 4.9.

contact the reporting entity.<sup>26</sup> The Commission monitors the reliability of communications services, which includes access to 911 networks, through these mandatory outage reporting requirements that, among other things, provide the federal government with situational awareness when outages occur, enable statistical analysis of outage trends, and inform recommendations to improve network reliability. This information is also shared with other agencies of the federal government, the 50 states, the District of Columbia, Tribal Nations, and the U.S. territories that have a need to know.<sup>27</sup>

9. For disruptions that potentially affect access to 911, the Commission's adopted rules require providers that deliver traffic to 911 special facilities (i.e., covered 911 service providers)<sup>28</sup> and cable, satellite, wireless, wireline, and interconnected VoIP providers that handle other aspects of 911 call processing (originating service providers or OSPs)<sup>29</sup> to notify 911 special facilities when an outage potentially affects the 911 special facility.<sup>30</sup> Notifications must be sent as soon as possible, but no later than 30 minutes after the outage's discovery, and contain all available material information about the outage, which includes, among other information, the date and time when the incident began, the types of communications services affected, the geographic area affected by the outage, how the outage affects the 911 special facility, the expected date and time of restoration, and the best-known cause of the outage.<sup>31</sup> The adopted rules require providers to notify 911 special facilities by telephone and in writing via electronic means in the absence of another method mutually agreed upon in writing in advance by the 911 special facility and the provider.<sup>32</sup> Providers must also exercise special diligence to identify, maintain, and, on an annual basis, confirm current contact information appropriate for 911 outage notification for each 911 special facility that covers areas that the service provider serves.<sup>33</sup> Requiring providers to notify

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<sup>26</sup> See 47 CFR §§ 4.9(a), (c)(1)-(2), (d), I(1), (f), 4.11. *But see* 47 CFR § 4.9(g) (allowing interconnected VoIP service providers 240 minutes to submit a notification when the outage potentially affects a 911 special facility, and 24 hours for other outages). Providers must also submit an initial report within 72 hours of discovery of the outage that contains all pertinent information then available, and final report within 30 days of discovery that contains all pertinent information on the outage, including any information that was not contained in, or that has changed from the information provided in, the initial report. See 47 CFR §§ 4.9(a)(4), (c)(3), (d), (e)(4), (f)(4), (g)(2), 4.11. Interconnected VoIP service providers are not required to submit initial reports.

<sup>27</sup> See 47 CFR § 4.2.

<sup>28</sup> 47 CFR § 9.19(a)(4); *Improving 911 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket Nos. 13-75 and 11-60, Report and Order, 28 FCC Rcd 17476, 17488-91, paras. 36-43 (2013) (*911 Reliability Report and Order*); *id.* at 17529-29, para. 147.

<sup>29</sup> 47 CFR §§ 4.3(a), (d), (f), (g), (h). The *Third Notice* referred to cable, satellite, wireless, wireline, and interconnected VoIP providers collectively as "originating service providers." *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, Improving 911 Reliability, New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 13-75, Third Notice of Proposed Rulemaking, 36 FCC Rcd 7860 (2021) (*Third Notice*). We continue to use that term here, but note that the communications services that they provide are not limited to call origination. These providers are subject to our part 4 outage reporting rules including when they experience outage in a location other than their call origination networks (e.g., in "middle mile" or wholesale transport network facilities).

<sup>30</sup> 47 CFR § 4.5(e); *see also* 47 CFR §§ 4.9(a)(4), (c)(2)(iv), (e)(1)(v), (f)(4), (g)(1)(i), (h).

<sup>31</sup> 47 CFR §§ 4.9(h)(2), (4). Additional material information to potentially affected 911 special facilities as the information becomes available, but no later than two hours after the initial notification. 47 CFR § 4.9(h)(5). For outages lasting longer than two hours, service providers will need to continue to follow up with additional material information as soon as possible after it becomes available, which continues until the outage is completely repaired and service is fully restored. *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, Improving 911 Reliability, New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket Nos. 15-80, 13-75, 04-35, Second Report and Order, FCC 22-88 at 14, para. 23 (Nov. 18, 2022) (*PSAP Notification Order*).

<sup>32</sup> 47 CFR § 4.9(h)(3).

<sup>33</sup> 47 CFR § 4.9(h)(1).

911 special facilities of outages enables those facilities to take steps to maintain the public's access to emergency services when it would otherwise be interrupted.<sup>34</sup> As the Commission has developed experience and a depth of situational awareness about outages that potentially affect 911 special facilities, it has refined these requirements and built on what it has learned.

10. On December 1, 2022, the 988 Lifeline suffered a nationwide outage that lasted several hours, rendering this vital service inaccessible to voice callers.<sup>35</sup> The Department of Health and Human Services announced the outage on Twitter, indicating they were “tracking a widespread national system outage at Intrado, a contractor for crisis providers that supports emergency response needs across the country, including the 988 Suicide & Crisis Lifeline . . . .”<sup>36</sup> The outage left callers reliant on alternative means to contact the hotline, such as text or webchat hosted at 988lifeline.org, to which the public was directed by SAMHSA once it was made aware of the outage.<sup>37</sup>

11. On January 26, 2023, the Commission adopted a Notice of Proposed Rulemaking (*988 Outage NPRM*) that proposed rules designed to ensure that the Commission and those parties that provide life-saving crisis intervention services to people calling the 988 Lifeline receive timely and actionable information about 988 service outages that potentially affect those services' ability to meet the immediate health needs of people in suicidal crisis and mental health distress.<sup>38</sup> In response to the *988 Outage NPRM*, the Commission received 16 comments and 13 reply comments representing 21 different entities and individuals, including a range of public safety organizations, state and local entities, service providers, and trade and advocacy organizations.

### III. DISCUSSION

#### A. Reporting 988 Outages in NORS

12. In the *988 Outage NPRM*, the Commission proposed to require entities that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls to report outages that potentially affect the 988 special facilities to the Commission's NORS.<sup>39</sup> We adopt this proposal, which

<sup>34</sup> *PSAP Notification Order* at 19, para. 37.

<sup>35</sup> See, e.g., Associated Press, *Widespread outage shuts down 988 mental health hotline*, (Dec. 1, 2022), <https://apnews.com/article/health-mental-service-outages-government-and-politics-d39ecadd27541c7c37c71caf95f975e> (“Those trying to reach the line for help with suicide, depression, or other mental health crises [were] greeted with a message that [said] the line is ‘experiencing a service outage’”).

<sup>36</sup> Sarah Lovenheim (@HHS-Spox), Twitter (Dec. 1, 2022, 2:02 PM), [https://twitter.com/HHS\\_Spox/status/1598392052903026689](https://twitter.com/HHS_Spox/status/1598392052903026689). Intrado Life & Safety, Inc. notes that as of January 31, 2023, it is a distinct entity from West Technology Group, LLC, which was known as Intrado Corporation at the time of the outage. Intrado Life & Safety Reply Comments at 1. West Technology Group was and remains the parent company of CX360, which provides voice and SMS-based services to the 988 Lifeline pursuant to a contract with the Lifeline administrator. CX360 d/b/a Mosaic Comments at 2 (CX360 Comments); CX360 Reply Comments at 6, n.11. Intrado Life & Safety clarifies that although it was formerly a West Technology Group subsidiary, it retained the “Intrado” brand after January 31 but did not provide 988 services to SAMHSA or the 988 Lifeline administrator. *Id.* at 1.

<sup>37</sup> See Amanda Seitz, Associated Press, *National 911 mental health hotline back up after outage*, (Dec. 2, 2022), <https://apnews.com/article/health-business-mental-government-and-politics-f94c8b5d5bc74e7df254bb5e846bf3a1>.

<sup>38</sup> *Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline; Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; Implementation of the National Suicide Hotline Improvement Act of 2018*, PS Docket Nos. 23-5 and 15-80, WC Docket No. 18-336, Notice of Proposed Rulemaking, FCC 23-7 (Jan. 27, 2023) (*988 Outage NPRM*).

<sup>39</sup> *988 Outage NPRM* at 8-9, paras. 13-14. Below, we define “988 special facilities” to include SAMHSA, the VA, and the 988 Lifeline administrator. We decline to designate local crisis centers as 988 special facilities at this time.

is overwhelmingly supported by commenters.<sup>40</sup> We believe this outage reporting requirement will both improve the resiliency of the 988 Lifeline system, and through the Commission's NORS information sharing rules,<sup>41</sup> ensure that SAMHSA, the Department of Veterans Affairs (the VA), and the Lifeline administrator have timely outage information so they can provide the public with alternative ways to access the Lifeline.<sup>42</sup> We agree with the Boulder Regional Emergency Telephone Service Authority that requiring the reporting of 988 outages will enable the tracking of outage trends, the identification of best practices to help preemptively address the common causes of outages, and the ability to anticipate and plan for future outages.<sup>43</sup> We also agree with Mental Health America that in helping promote timely access to the 988 Lifeline, these requirements will promote equity for at-risk populations.<sup>44</sup>

13. We observe that a person in suicidal crisis or emotional distress who cannot successfully reach a crisis center due to an outage continues to be at risk, regardless of whether the outage occurs before or after a call reaches the 988 Lifeline. This includes outages that prevent calls from being routed to the intended local crisis center or the Veterans Crisis Line. We agree with commenters that it is appropriate to require covered 988 service providers to report outages in NORS because the services they offer, which ensure that calls are routed to the correct destination after they reach the 988 Lifeline, are essential to the Lifeline's availability.<sup>45</sup> Vibrant, the 988 Lifeline administrator, has indicated that it can

<sup>40</sup> See, e.g., SAMHSA Comments at 1; Washington State Department of Health and Health Care Authority Comments at 2 (WA Dept. Health and HCA Comments); Mental Health America Comments at 1-2; NENA Comments at 2; T-Mobile Comments at 3; National Alliance on Mental Illness Comments at 1 (NAMI Comments); Southern Communications Services, Inc. d/b/a Southern Linc Reply Comments at 2 (Southern Linc Reply Comments); NCTA – The Internet & Television Association Reply Comments at 1-2 (NCTA Reply Comments). We continue to consider whether reporting and notification requirements should also be applicable to text messaging outages. See *988 Outage NPRM* at 10, para. 18 (seeking comment on whether and how outages of text to 988 services should be reported to the Commission). This proceeding does not address reporting or notification about outages of the 988 Lifeline's online chat services.

<sup>41</sup> See 47 CFR § 4.2.

<sup>42</sup> NAMI Comments at 1.

<sup>43</sup> Boulder Regional Emergency Telephone Service Authority Comments at 7 (BRETSA Comments). See also NAMI Comments at 1 (“[T]his rule will help information gathering for any future outages, supporting technical and procedural improvements that will strengthen 988 as a resource for people in emotional distress”); Vibrant Emotional Health Comments at 2 (Vibrant Comments) (“Vibrant agrees with the Commission’s beliefs that improving situational awareness of significant network outage issues affecting 988 Lifeline services would provide stakeholders with critical insight into the availability and reliability of the vital public health services of the 988 Lifeline.”); T-Mobile USA, Inc. Comments at 3-4 (T-Mobile Comments) (“[N]ew rules requiring entities that directly and contractually provide critical services to the 988 Lifeline to file reports for outages impacting 988 services will assist the FCC in evaluating the resiliency of the critical services necessary to keep the 988 Lifeline operational.”).

<sup>44</sup> Mental Health America Comments at 2 (“In 2022, 40% of all screeners reported frequent suicidal ideation. All BIPOC populations had higher rates of suicidal ideation than white people. LGBTQ+ youth and adults had 10% higher rates of moderate and severe depression. In addition, the 988 Lifeline helps individuals avoid police involvement in mental health and substance use crises. If the Lifeline is unavailable, more people may call 911, leading to harms that disproportionately affect people of color, including death and injury.”). See also Vibrant Comments at 6.

<sup>45</sup> See T-Mobile Comments at 3-4 (“[T]his proceeding was initiated in response to a service outage experienced by Intrado, the company that provides telecommunications services to the 988 Lifeline, that rendered the 988 service inaccessible nationwide. . . . Simply put, outage reporting by 988 CSPs is appropriate because there is a direct link between services provided by 988 CSPs and the availability of the 988 Lifeline.”); CTIA Comments at 3-4; AT&T Comments at 6 (“Because Covered 988 Service Providers provide service directly to the agencies overseeing the 988 Lifeline . . . , they would be in a better position than Originating Service Providers to notify the FCC of outages impacting 988, because they actually offer special services that are specific to the provision of the 988 Lifeline.”); Verizon Comments at 2 (“The scope of the proposed codified rule is appropriately focused on ‘Covered 988

(continued....)



use outage information to quickly update routing tables used by covered 988 service providers in order to avoid routing calls to crisis centers that are experiencing an outage.<sup>46</sup> Because this outage information would be used to increase the availability and resiliency of 988 services, we therefore disagree with CX360 that it is not necessary for the FCC to adopt rules to provide the Commission and the parties responsible for operation of the 988 Lifeline with timely and actionable information about outages that occur after those communications reach the Lifeline.<sup>47</sup> While CX360 argues that “SAMHSA and the 988 Lifeline Administrator already are capable of operating the 988 Lifeline effectively” without such reporting,<sup>48</sup> we note that SAMHSA and Vibrant both support the reporting requirement.<sup>49</sup> We also reject CX360’s argument that reporting requirements are not necessary because SAMHSA and the VA already have visibility into outages that occur after calls reach the 988 Lifeline.<sup>50</sup> Because CX360 offers no supporting details as to what information SAMHSA and the VA are receiving and whether its substance and timing is comparable to the requirements we adopt today, we are not persuaded that this visibility, if it exists, undercuts the justification for the rules that we adopt.<sup>51</sup>

14. We define “covered 988 service providers” as those providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls.<sup>52</sup> We find that the scope of this definition is appropriately limited in that it covers only those providers that are essential to the capabilities of the 988 Lifeline.<sup>53</sup> We agree with SAMHSA that “covered 988 service providers” should not include 988 crisis centers themselves nor the Veterans Crisis Line.<sup>54</sup> Crisis centers do not receive, process, or forward calls and lack the expertise and access to information that would be necessary to make such reports. In addition, a requirement for crisis centers to make such reports would place significant additional burdens on them during outages, which would run contrary to the goals of this proceeding. We also find that covered 988 service providers should not include originating service providers that originate 988 calls and deliver calls to the 988 Lifeline but otherwise do not provide services for the Lifeline. Commenters point out that originating service providers do not generally provide the 988 Lifeline with

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providers’ . . . . These are the entities that provide the 988 Lifeline with service through direct contractual arrangements, and are directly accountable to the 988 Lifeline and the local help centers it supports.”).

<sup>46</sup> See *infra* para. 25; Vibrant Comments at 3.

<sup>47</sup> CX360 Comments at 3.

<sup>48</sup> CX360 Comments at 5. See also CX360 Comments at 6 (“SAMHSA and the 988 Lifeline Administrator are capable of maintaining the 988 Lifeline through these direct contracts, without Commission intervention.”).

<sup>49</sup> SAMHSA Comments at 1; Vibrant at 2-3.

<sup>50</sup> CX360 Reply Comments at 5.

<sup>51</sup> Contrary to CX360’s view, we find that Voice on the Net Coalition’s (VON’s) explanation that 988 Lifeline calls are capable of being rerouted to a back-up crisis center in the event of an outage is not evidence that SAMHSA, the VA, or the 988 Lifeline administrator is already receiving sufficient information about 988 outages. See CX360 Reply Comments at 5-6 (citing VON Comments at 2-3). We also have no reason to believe CX360’s assertion, unsupported by any evidence, that any information known by vendors to the 988 Lifeline will also inherently be known by the 988 Lifeline administrator and SAMHSA. CX360 Reply Comments at 6.

<sup>52</sup> See *988 Outage NPRM* at 9, para. 15 (proposing to define “covered 988 service providers” as those providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls). We respond to commenters that question the scope of the new rules by clarifying that, consistent with longstanding practice in the 911 context, the new paragraph (f) of section 4.5 does require outage reporting from those entities that provide a communications network or service that facilitates the receipt, processing, or forwarding of the call, including from the 988 Lifeline to the local 988 crisis center. See *New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, Report and Order, 19 FCC Rcd 16830, 16873-76, paras. 76-81 (2004).

<sup>53</sup> See T-Mobile Comments at 3-4; CTIA Comments at 3-4; CTIA Reply Comments at 2-3; AT&T Comments at 6; Verizon Comments at 2.

<sup>54</sup> SAMHSA Comments at 1.



capabilities such as receiving, processing, or forwarding calls, while the service providers that do offer these capabilities will likely do so through direct contractual arrangements.<sup>55</sup> We agree with USTelecom that “defining ‘covered service provider’ in this way is consistent with the Commission’s definition in the 911 context, and keeping definitions of key terms consistent across these public safety contexts will prevent confusion and facilitate regulatory certainty.”<sup>56</sup> Finally, we agree with Voice on the Net Coalition that covered 988 service providers should not include providers of capabilities that are provided directly to local crisis centers,<sup>57</sup> as those are not services that are provided directly to the 988 Lifeline.

15. Although we are excluding them from the definition of covered 988 service providers, we also find that originating service providers are critical in providing 988 service and thus require cable, satellite, wireless, wireline, and interconnected VoIP providers to report in NORS outages that potentially affect the 988 special facilities.<sup>58</sup> We agree with Mental Health America that these originating service providers, like covered 988 service providers, “have a role to play in ensuring that people get their responses when they need crisis counseling,”<sup>59</sup> and agree with Vibrant that “having the same requirements for covered service providers and OSPs ensures the delivery of timely, actionable information while also reducing the burden of reporting by streamlining requirements.”<sup>60</sup> We also agree with the Washington State Department of Health and Health Care Authority that reporting requirements “should not be different for originating service providers that deliver calls to the 988 Lifeline in the first instance versus the covered 988 service provider that handles the call thereafter.”<sup>61</sup> As we state above, a person in suicidal crisis or emotional distress who cannot successfully reach a crisis center due to an outage continues to be at risk, regardless of whether the outage occurs before or after the call reaches the 988 Lifeline. For that reason, the reporting of outages that occur in originating service providers’ networks are essential to improving the resiliency of the 988 Lifeline and ensure that SAMHSA, the VA, and the Lifeline administrator have timely outage information so they can provide the public with alternative ways to access the Lifeline. We also find, consistent with the views of the National Alliance on Mental Illness, that “having more sources of data regarding outages will enhance the ability of the FCC and the 988 administrator to identify what is needed to create a more reliable network.”<sup>62</sup>

16. We disagree with those commenters that argue that it is premature for the Commission to consider the adoption of 988 outage reporting requirements.<sup>63</sup> The record reflects the serious impact of the December 2022 covered 988 service provider outage, and nothing in that record indicates that such an

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<sup>55</sup> Verizon Comments at 2; CTIA Comments at 4; CTIA Reply Comments at 2-3; WA Dept. Health and HCA Comments at 3; ATIS Comments at 6; USTelecom Reply Comments at 2; Southern Linc Reply Comments at 2-3. We note that the rules we adopt today would place requirements on entities that provide the 988 Lifeline with capabilities such as receiving, processing, or forwarding calls, regardless of whether they have a direct contractual relationship with the Lifeline.

<sup>56</sup> USTelecom – The Broadband Association Comments at 2-3 (USTelecom Comments); Alliance for Telecommunications Industry Solutions Comments at 4-5 (ATIS Comments); T-Mobile Comments at 4.

<sup>57</sup> VON Comments at 3.

<sup>58</sup> *See 988 Outage NPRM* at 9-10, para. 17.

<sup>59</sup> Mental Health America Comments at 1-2 (recommending that both covered providers and originating site providers be required to report 988 outages in NORS).

<sup>60</sup> Vibrant Comments at 3.

<sup>61</sup> WA Dept. Health and HCA Comments at 4.

<sup>62</sup> NAMI Comments at 2.

<sup>63</sup> CTIA Comments at 5 (“The FCC has not yet undertaken the information-gathering process needed to determine whether OSP 988 outage reporting requirements would be useful at all and, if so, how to structure them effectively in the context of the unique operations of 988.”); CTIA Reply Comments at 3-4; Intrado Life & Safety Reply Comments at 2; Southern Linc Reply Comments at 4. We observe that gathering information about the usefulness and appropriate structure of 988 outage reporting requirements are the functions served by this very proceeding.

outage could not happen again, or that originating service provider outages do not affect the delivery of 988 calls. We also disagree with Southern Linc, which argues that originating service providers should not be required to report 988 outages because they do not have visibility into the delivery of 988 communications after those communications leave their networks.<sup>64</sup> Originating service providers nonetheless have visibility into whether 988 calls are disrupted due to outages in their own network or the networks of third parties with which they contract for service before being delivered to Lifeline.<sup>65</sup> We therefore believe that originating service providers should be required to report those outages for the reasons explained above.

17. The record informs us that originating service providers currently lack the capability to distinguish outages that prevent the completion of a 988 call from outages on their network that prevent the completion of other calls.<sup>66</sup> For the purposes of the rules we adopt today, this is immaterial because outages that prevent the completion of all calls are necessarily outages that potentially affect 988 special facilities.<sup>67</sup> We find that reports about service-wide outages, like reports that are specific to 988 Lifeline outages, provide insight into 988's reliability and can provide information to SAMHSA, the VA, and the Lifeline administrator that would allow them to effectively respond to outages (e.g., notify the public of alternate ways to contact the 988 Lifeline). We also believe that this approach acknowledges the current capabilities of existing networks, gives service providers flexibility as to how they can satisfy the requirements, and potentially reduces compliance costs by leveraging providers' existing technical capabilities and systems.<sup>68</sup> We note that originating service providers are already required to report voice service outages in NORS, regardless of a call's destination.<sup>69</sup> As a consequence, we find that providers complying with this existing outage reporting requirement will only need to take nominal action to report voice telephony outages that potentially affect the 988 Lifeline to the Commission. As recommended by ATIS and NCTA, we will add a checkbox to NORS so that reporting providers can clearly indicate whether a reported outage potentially affects a 988 special facility.<sup>70</sup> We believe this field will improve the ability of the Commission and the agencies with which it shares NORS data to quickly recognize and more effectively analyze the effects of reported outages.

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<sup>64</sup> Southern Linc Reply Comments at 3-4.

<sup>65</sup> See *PSAP Notification R&O* at 7, para. 20 (explaining that reliance upon a third-party service provider to manage, route, or otherwise contribute to 911 call processing does not relieve a service provider of its obligations—even if the discovery is first made by the third party).

<sup>66</sup> See AT&T Services, Inc. Comments at 5 (AT&T Comments) (“There is simply no way for Originating Service Providers to differentiate between 988 and non-988 calls and texts in their networks. Voice calls to 988 are routed like any other call without any special processing or dedicated facilities. Text-to-988 primarily uses wireless Short Message Service (“SMS”), a best-efforts service without guarantees for delivery. Like 988 voice calls, there are no dedicated network elements built into the Originating Service Provider networks for text and the text is routed just like any other text short code, which is sent directly to an aggregator along with other carrier texts.”); Verizon Comments at 3 (“Unlike 911 calls, originating service providers do not maintain facilities or functions in their networks that are unique to 988 calls. As such, originating service providers cannot distinguish 988 calls from other voice traffic.”).

<sup>67</sup> See *PSAP Notification R&O* at 7, para. 11 (explaining that outages that “potentially affects a 911 special facility” under 47 CFR § 4.5(e)(1) include outages that affect general calling, as these outages prevent 911 calls from being transmitted to the PSAP).

<sup>68</sup> See ATIS Comments at 5 (“ATIS NRSC points out that general voice outages impacting 911 dialing will similarly impact a user’s ability to dial 988. The industry already has systems in place to facilitate the identification and reporting of voice outages based on this threshold.”).

<sup>69</sup> 47 CFR §§ 4.9(a)(1), (c)(2)(ii), (e)(1)(ii), (f)(1), (g)(1)(ii); Verizon Comments at 3 (“[B]ecause the rules already apply to the major originating access network outages that affect 988 dialing, new rules for originating service providers would be redundant.”).

<sup>70</sup> ATIS Comments at 5; NCTA Reply Comments at 2.

18. We define “outages that potentially affect a 988 special facility” as events that result in the loss of the ability of the 988 Lifeline to receive, process, or forward calls, potentially affecting at least 900,000 user-minutes and lasting at least 30 minutes duration.<sup>71</sup> The majority of commenters support using the same outage reporting thresholds for 988 as those previously adopted for 911 outages.<sup>72</sup> We agree with USTelecom that “[s]tandardizing the threshold across [988 and 911] will facilitate efficient, timely compliance, and is consistent with the Notice’s objective of imposing ‘only minor changes to existing procedures’ by ‘closely align[ing]’ them with rules for 911-related outages.”<sup>73</sup> We acknowledge the concerns of the Veterans Crisis Line, which argues that outages shorter than 30 minutes in duration should be reported because, statistically, as many as three deaths by suicide may occur within 30 minutes.<sup>74</sup> However, we believe that the benefits of awareness and opportunities for action that arise from the reporting of outages must be balanced against the burden of reporting those outages. Based on the record before us, we are unable to determine whether reducing the minimum or user-minute durations of reportable outages would improve upon that balance. At this time, it is unclear to what extent reduced thresholds would increase the number of 988 outage reports received, the extent to which additional reporting would contribute to public safety and the reliability of the 988 Lifeline, and whether those benefits would outweigh the burdens associated with increased reporting. For these reasons, we believe it is sensible to adopt 988 outage reporting requirements that are consistent with existing 911 outage reporting requirements and providers’ existing reporting procedures. As noted by APCO, we have recently directed the Public Safety and Homeland Security Bureau (Bureau) to gather information on the volume of 911 outages that may go unreported under the Commission’s existing outage notification thresholds and have sought additional comment on possible alternative outage reporting thresholds.<sup>75</sup> We direct the Bureau to add 988 Lifeline outages to its examination.

19. We clarify, as requested by SAMHSA, that outages that potentially affect the 988 Lifeline include partial service disruptions, as well as outages with a duration of more than 30 minutes.<sup>76</sup> We note that Section 4.5(a) of our rules defines an outage as “a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider’s network.”<sup>77</sup> For example, any circumstances in which the ability of the 988 Lifeline to receive, process, or forward calls is significantly degraded for at least 30 minutes and potentially affects at least 900,000 user-minutes must be reported in NORS. This includes circumstances in which the degradation lasts longer than 30 minutes and circumstances in which 988 calls are received by a call-taker despite the degradation.<sup>78</sup> We disagree with USTelecom’s view that partial outages and service disruptions should not be subject to 988 outage reporting and notification requirements, which it argues would complicate the outage reporting process and result in over-notification.<sup>79</sup> Because the Commission’s existing outage reporting and notification rules already define

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<sup>71</sup> We note that “loss of the ability of the 988 Lifeline to receive . . . calls” includes outages in originating service providers’ networks that prevent successful transmission of calls to the Lifeline.

<sup>72</sup> USTelecom Comments at 3-4; ATIS Comments at 5; Verizon Comments at 2 n.5; NENA Comments at 7; Veterans Crisis Line Comments at 1. *See also* SAMHSA Reply Comments at 1 (“SAMHSA is okay with a single NORS update that covers both 988 and 911.”).

<sup>73</sup> USTelecom Comments at 3-4 (“Practicality, predictability, and efficiency favor reliance on this reporting threshold.”).

<sup>74</sup> Veterans Crisis Line Comments at 1.

<sup>75</sup> APCO Reply Comments at 2; *PSAP Notification Order* at 14, n.86.

<sup>76</sup> SAMHSA Comments at 1; *see also* Mental Health America Comments at 2.

<sup>77</sup> 47 CFR § 4.5(a).

<sup>78</sup> *See* Vibrant Comments at 2 (“[C]onnection drops, timeouts, and other issues representing 50% partial degradation or more should also trigger NORs reporting.”).

<sup>79</sup> USTelecom Reply Comments at 4.

“outages” to include partial service disruptions, exempting partial service disruptions from 988 reporting and notification requirements would make our rules more complicated, not less complicated. We also find little evidence in the record supporting the conclusion that the reporting of partial outages would result in too many notifications, particularly since SAMHSA and Vibrant, which are two of the three of the entities who would receive notifications under the rules that we adopt below, are specifically requesting notifications about partial outages.<sup>80</sup>

20. We require 988 outage reports be filed with the Commission in NORS, consistent with our current requirements for outage report filing processes and timing. No commenter objected to the use of NORS for this purpose. We agree with ATIS that “industry is already familiar with NORS and believes that the use of NORS will reduce implementation costs associated with 988 outage reporting and would be significantly less costly and burdensome than the implementation of a new or different reporting system.”<sup>81</sup> We further agree with USTelecom that reporting in NORS “will streamline the reporting process and allow providers to devote maximum attention to addressing the outage itself and getting service back up and running, rather than diverting time and resources to more complex or cumbersome reporting requirements.”<sup>82</sup>

21. We decline to allow alternatives to NORS reporting, such as reporting by e-mail, as requested by CX360.<sup>83</sup> We do not agree that alternatives would reduce administrative burdens on providers.<sup>84</sup> NORS is a well-established system that facilitates the filing of outage reports in a streamlined and uniform manner with all information required by our rules. NORS supports the filing of outage data through Application Program Interfaces (API), which can facilitate the automated filing of outage reports.<sup>85</sup> Submission of outage reports via e-mail would create opportunities for inconsistently styled filings with incomplete or confusing information, which would lead to Commission staff taking up providers’ time with numerous calls and questions about their filings. The submission of reports by e-mail would also greatly diminish the Commission’s ability to record historic outage data, analyze outage trends, and share outage information with federal, state, Tribal, and territorial agencies. For these reasons, both efficiency and effectiveness weigh in favor of requiring all outage reports to be filed in NORS.

22. We allow direct read-only access to NORS data by SAMHSA and the VA, consistent with our existing NORS outage information sharing procedures.<sup>86</sup> In the *988 Outage NPRM*, we stated our belief that improving situational awareness of significant network outage issues affecting 988 Lifeline services would not only provide the Commission with critical insight into the availability and reliability of a vital public health service, but would also provide that insight to the other federal, state, Tribal, and

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<sup>80</sup> SAMHSA Comments at 1; Vibrant Comments at 2.

<sup>81</sup> ATIS Comments at 5.

<sup>82</sup> USTelecom Comments at 3. *See also* USTelecom Reply Comments at 3; Veterans Crisis Line Comments at 1 (“988 reporting requirements should be consistent with the 911 reporting requirements. . . . Service providers should report to the NORS system.”).

<sup>83</sup> CX360 Reply Comments at 8.

<sup>84</sup> *See id.*; Letter from Debra McGuire Mercer, Counsel to CX360, Inc., to Marlene H. Dortch, Secretary, FCC, PS Docket No. 23-5 et al., at 2-3 (filed July 14, 2023) (CX360 Ex Parte) (arguing that NORS filing is burdensome, inefficient, and requires an individual to manually enter information into NORS).

<sup>85</sup> *See* FCC, Network Outage Reporting System (NORS) Application Programming Interface (API) Developer Guide (Mar. 2, 2017), [https://transition.fcc.gov/pshs/docs/NORS/NORS\\_APIGuide\\_v1.pdf](https://transition.fcc.gov/pshs/docs/NORS/NORS_APIGuide_v1.pdf).

<sup>86</sup> 47 CFR § 4.2; *Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, PS Docket No. 15-80, Second Report and Order, 36 FCC Rcd 6136 (2021) (*NORS/DIRS Information Sharing R&O*) (describing the “need to know” requirement for eligibility); FCC, Outage Information Sharing (Sept. 30, 2022), <https://www.fcc.gov/outage-information-sharing>.

territorial agencies with whom NORS data is shared.<sup>87</sup> We agree with SAMHSA that having access to outage reports and related analysis on network reliability will better enable these stakeholders to prepare and respond to network disruptions and better ensure the 988 Lifeline's availability.<sup>88</sup> We also agree with the Washington State Department of Health and Health Care Authority that these 988 stakeholders would benefit from having access to outage reports that indicate whether 988 calls affected by an outage are being rerouted to other crisis centers.<sup>89</sup> We further agree with BRETSA that improving the availability of information about 988 network reliability would empower 988 stakeholders to take additional steps to make the 988 Lifeline even more reliable.<sup>90</sup> For these reasons, we clarify that we consider the lifesaving services offered by the 988 Lifeline<sup>91</sup> to be emergency management and first responder support functions.<sup>92</sup> Accordingly, in order for SAMHSA and the VA to mitigate the impacts service outages may have on access to the 988 Lifeline and VA Crisis Line, and ensure these services remain available to support the safety of the general public seeking crisis support and to prevent suicide among veterans, we find that both SAMHSA and the VA have a "need to know" and are eligible to apply for direct access to the Commission's outage reports. While the 988 Lifeline administrator is not itself eligible for direct access to these reports because it is not a government agency, we observe that the Commission's outage information sharing rules would allow SAMHSA and the VA to share information with them about specific outages, subject to certain confidentiality requirements and other safeguards.<sup>93</sup>

**B. Providing 988 Special Facilities with Notice of Outages**

23. We require covered 988 service providers to directly notify 988 special facilities about outages that potentially affect those facilities.<sup>94</sup> Commenters generally support the adoption of such a

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<sup>87</sup> 988 Outage NPRM at 9, para. 14; 47 CFR § 4.2.

<sup>88</sup> See SAMHSA Comments at 1 ("SAMHSA proposes network reliability trends and mitigation strategies analyzed and produced by the Commission as a result of NORS reporting be shared on a consistent basis with SAMHSA, VA, and the Network Administrator.").

<sup>89</sup> See WA Dept. Health and HCA Comments at 2 (arguing that it would be helpful for the provider to report whether 988 calls affected by an outage are being rerouted to the National Backup Center or if calls are being routed to other in-state providers). See also Verizon Comments at 5 ("If 988 Lifeline stakeholders learn of (or perceive) issues concerning a particular provider's services, e.g. due to a noticeable drop in its inbound 988 call traffic, the stakeholders could access such information and contact Bureau staff to ensure any communication to the reporting service provider is coordinated among the Federal government agencies involved. This would minimize the Commission's, service providers' and 988 Lifeline stakeholders' need to allocate additional resources to meet this objective.").

<sup>90</sup> BRETSA Comment at 9 ("Notification of the cause of an outage, or that a crisis center or PSAP is subject to service impairment, will alert these entities to their vulnerability to outages and allow them to explore the potential for placement of diverse call paths, subscription to standby satellite services, or other means enhancing service reliability, and put in place contingency plans to deal appropriately with potential outages.").

<sup>91</sup> The national suicide prevention mental health crisis hotline system operates through the National Suicide Prevention Lifeline maintained by the Assistant Secretary for Mental Health and Substance Use Section 520E-3 of *The Public Health Service Act*, *National Suicide Prevention Lifeline Program*, 42 U.S.C. § 290bb-36c, and through the Veterans Crisis Line maintained by the Secretary of Veterans Affairs under *The Comprehensive Program for Suicide Prevention Among Veterans and Members of the Reserve Components of the Armed Forces*, 38 U.S.C. § 1720F(h). See also National Suicide Hotline Designation Act of 2020 (Congress deemed "life-saving resources" such as crisis lines "essential" and recognized the need for a 3-digit phone number for such services to be readily available in emergency situations.).

<sup>92</sup> NORS/DIRS Information Sharing R&O, 36 FCC Rcd at 6146-47, paras. 32-39 (describing the "need to know" requirement for eligibility).

<sup>93</sup> See 47 CFR § 4.2(b).

<sup>94</sup> See 988 Outage NPRM at para 20 (proposing to require covered 988 service providers to notify 988 special facilities about outages that potentially affect a 988 special facility).

requirement.<sup>95</sup> We agree with USTelecom that this requirement “strike[s] the right balance of getting relevant, actionable information to the proposed 988 special facilities” that will allow them to take steps to maintain the public’s access to crisis intervention services “without overloading them.”<sup>96</sup> We agree with BRETSA that 988 outage notifications can help provide information that will allow 988 special facilities to route calls to alternative crisis centers and to help those centers make necessary staffing adjustments.<sup>97</sup> As Vibrant highlights, it can use information about outages in its capacity as the 988 Lifeline administrator to quickly update routing tables to avoid routing calls to crisis centers that are experiencing an outage.<sup>98</sup> Notifications would also allow 988 callers to receive assistance faster, as they would help ensure that those individuals timely connect to a crisis counselor by reducing the amount of time they would have to wait for assistance as a result of having calls fail to be received by a crisis center.<sup>99</sup> The 988 Lifeline administrator is also able to “effectively and quickly inform all centers in the network of an outage that may impact service and lead to an increase in volume for centers in the areas that are not impacted by the outage. This insight allows time for those unaffected centers to quickly scale to the needed capacity in order to handle the anticipated increased volume that needs to be re-routed.”<sup>100</sup> We also continue to believe that timely notice of a 988 Lifeline outage will assist SAMHSA, the VA, and the 988 Lifeline administrator to quickly inform the public of alternative ways of contacting the Lifeline while one type of communication is unavailable, such as texting or using the online chat function if calls are not getting through.<sup>101</sup> We disagree with CX360, who implies that 988 outage notifications should be handled through contracts between the 988 Lifeline administrator and its service providers rather than by rule.<sup>102</sup> We find that it is more efficient and better serves the public interest to establish a single, uniform rule for 988 outage notifications that will apply to all service providers with which the Lifeline administrator may contract in the future rather than make the occurrence, frequency, and content of those notifications a repeated subject of negotiation. We further believe that it will not serve the public interest to make 988 outage notifications dependent on the 988 Lifeline administrator’s renegotiation of contracts that are in place today, which would have an uncertain result and likely require considerable time to complete. The notification requirements we adopt today are similar to the notification requirements we have adopted for covered 911 service providers, which we have found to be effective.<sup>103</sup>

24. We find that reliance upon a third-party service provider to manage, route, or otherwise contribute to 988 call processing does not relieve providers of the obligation to provide outage notification to 988 special facilities. We agree with NENA that “the fact that a third party service may specialize in supporting outage notifications, and may have a business relationship with a provider,

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<sup>95</sup> SAMHSA Comments at 1-2; ATIS Comments at 6; NENA Comments at 2; USTelecom Comments at 5; NAMI Comments at 2; Vibrant Comments at 4.

<sup>96</sup> USTelecom Comments at 5; *see also 988 Outage NPRM* at 10, para. 21.

<sup>97</sup> BRETSA Comments at 2, 7 (“Notification is also necessary as crisis centers to which 988 calls are contingently routed during an outage may need to call in extra staff to handle the increased volume of calls.”).

<sup>98</sup> Vibrant Comments at 3.

<sup>99</sup> *Id.*

<sup>100</sup> Vibrant Comments at 4.

<sup>101</sup> *988 Outage NPRM* at 10, para. 21.

<sup>102</sup> CX360 Comments at 6 (“Given the contractual relationships between the 988 Lifeline Administrator and entities that provide services to it, the 988 Lifeline Administrator is best suited to determine the forms of notices that should be required from its service providers and to enforce such notifications through contractual means.”).

<sup>103</sup> *See PSAP Notification R&O* at 19, para. 37 (discussing how the harmonizing the 911 special facility notification requirements for OSPs with those for covered 911 service providers will “facilitate the prompt ability of 911 special facilities to manage those outages’ impacts on operations and on the public, resulting in more prompt dispatch of service”).

should not change any reporting requirements for the provider.”<sup>104</sup> We disagree with CX360’s view that covered 988 service providers should only be responsible for reporting outages on facilities over which they have direct control.<sup>105</sup> In this regard, “[t]he Commission has long held that licensees and other regulatees are responsible for the acts and omissions of their employees and independent contractors,” and has recognized that “under long established principles of common law, statutory duties are nondelegable.”<sup>106</sup> We note that this approach mirrors the requirements we have adopted for outages that potentially affect 911 special facilities,<sup>107</sup> which should promote consistency in how notifications are made by service providers.

25. We designate SAMHSA, the VA, and the 988 Lifeline administrator as the 988 special facilities that must receive notifications of 988 outages.<sup>108</sup> Commenters agree that it is appropriate for these three entities to receive outage notifications.<sup>109</sup> We agree with USTelecom that this requirement will “assist these entities, which oversee and administer the 988 Lifeline, in quickly informing the public of alternative ways to contact the 988 Lifeline as needed.”<sup>110</sup> We also note, as highlighted by SAMHSA, that such an approach to outage notification will allow the 988 Lifeline administrator to identify and inform the appropriate crisis centers about outages, as it will have the most updated routing tables and patterns on any given day.<sup>111</sup>

26. At this time, we find that 988 special facilities that are required to receive 988 outage notifications should not include the local crisis centers to which some 988 calls are routed. The record establishes that the 988 Lifeline’s current approach of routing calls based on the area code associated with the user’s device makes effective notification of this type extremely challenging. As commenters explain, many users’ mobile devices have an area code that is different from the area code in which they are located,<sup>112</sup> which would mean that outages limited to a specific geographic region could nonetheless potentially affect every single local crisis center across the country.<sup>113</sup> We agree with those commenters

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<sup>104</sup> NENA Comments at 3 (“The fact that a third party service may specialize in supporting outage notifications, and may have a business relationship with a provider, should not change any reporting requirements for the provider. The third-party service acts only as an agent of the service provider.”). *See also* Vibrant Comments at 4.

<sup>105</sup> CX360 Reply Comments at 13.

<sup>106</sup> *See* Eure Family Limited Partnership, *Memorandum Opinion and Order*, 17 FCC Rcd 21861, 21863-64 (2002), citing MTD, Inc., 6 FCC Rcd 34, 35 (1991), Wagnvoord Broadcasting Co., 35 F.C.C.2d 361 (1972). *See also* Amendment of the Commission’s Rules to Provide Spectrum for the Operation of Medical Body Area Networks, *First Report and Order and Further Notice of Proposed Rulemaking*, 17 FCC Rcd 6422, 6439 n.108 (2012); Courier Communications Corp., 23 FCC Rcd 2593, 2595 n.25 (EB 2008).

<sup>107</sup> *PSAP Notification Order* at 8-9, para. 13.

<sup>108</sup> *See 988 Outage NPRM* at para 20.

<sup>109</sup> SAMHSA Comments at 1-2; USTelecom Comments at 4; CTIA Comments at 6; Vibrant Comments at 4; CX360 Reply Comments at 9; NCTA Reply Comments at 3-4.

<sup>110</sup> USTelecom Comments at 4.

<sup>111</sup> SAMHSA Comments at 1-2.

<sup>112</sup> *See* Vibrant Comments at 4-5 (stating that “[n]early 40% of individuals live in a metropolitan statistical area that does not match their cell phone”); BRETSA Reply Comments at 2 (“[N]umber-portability enables people to keep their numbers when they move from the geographic area to which their area code is assigned.”).

<sup>113</sup> *See, e.g.*, T-Mobile Comments at 6 (“For example, if an accredited local crisis center located in Alexandria, Virginia is the closest center for callers with a 703 area code, an OSP network outage in Alexandria and surrounding areas will not prevent all 988 calls from reaching the center. Only calls placed from within the outage area will be prevented from reaching these services. Calls placed by callers with a 703 area code that are physically outside the outage area will still be able to place 988 calls that will be routed to the Alexandria center and the center should receive those calls. Further, calls placed by callers with non-703 area codes that are physically located within the outage area will be unable to complete calls to the calling centers associated with their area codes.”).



that argue that notifications provided to local crisis centers under these circumstances are likely to be overbroad, too frequent, or not provide information that the local crisis center would be capable of acting on.<sup>114</sup>

27. Based on the record before us, we find that regardless of the scope of an outage, SAMHSA, the VA, and the 988 Lifeline administrator are in the best position to identify what information about a specific outage may be relevant to local crisis centers (including changes in local crisis center routing) and use existing points of contact to convey that information.<sup>115</sup> As Vibrant explains, crisis centers will be notified about outages by the 988 Lifeline administrator irrespective of contact by a covered 988 service provider or originating service provider.<sup>116</sup> While several commenters support notification of local crisis centers in some or all situations,<sup>117</sup> the record does not offer a convincing explanation of how local crisis centers would be able to effectively act upon 988 outage notifications to ensure that 988 callers receive assistance. The record also does not provide clarity on how any benefits arising from those challenges should be weighed against the challenges to providers arising from the need to maintain updated contact information for those centers.<sup>118</sup> While BRETSA argues that outage notifications could assist local crisis centers in making decisions about appropriate staffing levels,<sup>119</sup> we believe that direct notification by service providers would not supply sufficient information for this purpose because, in addition to the geographic routing challenges discussed above, the notifications would not offer any visibility into any related routing changes made by the 988 Lifeline administrator that would ultimately affect call volume to those centers. BRETSA also argues that

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<sup>114</sup> See ATIS Comments at 7; CCA Comments at 5; AT&T Comments at 7; CTIA Comments at 6-7; CTIA Reply Comments at 4-5; USTelecom Reply Comments at 2-3; CX360 Reply Comments at 9-11; NCTA Reply Comments at 3.

<sup>115</sup> ATIS Comments at 7 (“ATIS NRSC believes that, if such notice to other entities is required, it should be provided by the 988 Special Facilities, not by service providers. These entities have direct relationships with the local crisis centers”); USTelecom Comments at 4-5 (“[I]f analogizing to the 911 setting, the Lifeline Administrator and its call routing platform is more akin to the PSAP and its serving selective router. Thus, the 988 Lifeline Administrator would be in the best position to act on information received in an outage notification. As Vibrant, the current 988 Lifeline Administrator, has previously explained, the 988 Lifeline handles call routing; therefore, notifying the Administrator of outages would enable it to take action in response to an outage, such as allowing for rerouting calls to areas not affected by the outage.”); CTIA Comments at 6-7 (“It is also not clear how outage notifications from OSPs would further the mission of local crisis centers as 988 communications are routed on a nationwide basis.”); AT&T Comments at 7 (“Originating Service Providers would not be able to determine with any degree of confidence which local crisis centers might benefit from direct notification in the event of an outage.”); Verizon Comments at 4 (“And any associated outage reporting and notification responsibilities for events affecting local crisis centers should lie solely with the 988 Lifeline and its underlying service/toll-free platform provider(s) responsible for routing the calls, as the latter would have exclusive control of routing tables and other functions necessary to direct the call to the local call center.”).

<sup>116</sup> Vibrant Comments at 4.

<sup>117</sup> SAMHSA Comments at 1 (“SAMHSA believes that impacted 988 crisis centers should be notified of any global outages at the same time SAMHSA, VA, and the Network Administrator are notified.”); WA Dept. Health and HCA Comments at 4-5; BRETSA Comments at 7, 9.

<sup>118</sup> See USTelecom Comments at 4-5 (“Unlike in the 911 context, where calls are handled locally and the identity of local government-administered Public Safety Answering Points (“PSAPs”) is known and fairly constant, the number and identities of 988 local crisis centers can change without notice. In addition, these local crisis centers take many forms and are independently operated by many different organizations, making tracking them a challenge.”); CCA Comments at 5 (“CCA members believe that administering broad 988 notifications would be similar to or perhaps even more difficult than in the 911 PSAP context. They anticipate significant issues such as problems gathering and maintaining reliable contact information and experiencing an elevated level of unanswered (e.g., non-24/7) phone numbers and/or un-monitored email addresses.”).

<sup>119</sup> BRETSA Comments at 7.

notifications can assist local crisis centers with making long-term network reliability decisions,<sup>120</sup> but we observe that outage notifications are intended to support imminent action during outages rather than long-term decision-making.

28. We also require originating service providers, that is, cable, satellite, wireless, wireline, and interconnected VoIP providers, to notify 988 special facilities about outages that potentially affect those facilities.<sup>121</sup> As discussed above, a person in suicidal crisis or emotional distress that cannot successfully reach a crisis center due to an outage continues to be at risk, regardless of whether the outage occurs before or after the call reaches the 988 Lifeline. For that reason, outage notifications are essential to ensuring that SAMHSA, the VA, and the Lifeline administrator have timely outage information so they effectively respond to outages. We therefore agree with those commenters that argue that originating service providers should be required to provide notifications of 988 outages.<sup>122</sup>

29. We disagree with Southern Linc's opinion that the area code-based routing of 988 makes it "highly doubtful that OSPs would be able to provide any actionable outage information to 988 special facilities."<sup>123</sup> As discussed above, the 988 Lifeline administrator can use outage notifications to update routing tables to avoid routing calls to crisis centers that are themselves experiencing outages, as well as inform crisis centers about increases or decreases of incoming calls so they can appropriately scale capacity.<sup>124</sup> If needed, SAMHSA, the VA, and the 988 Lifeline administrator could also use information about an outage to inform the public of alternative ways of contacting the Lifeline while a means of communication is unavailable. These actions are available regardless of whether an outage occurs within the network of a covered 988 service provider or an originating service provider. We also disagree with T-Mobile's argument that 988 special facilities should not receive notifications, but should instead obtain outage information from NORS data.<sup>125</sup> NORS data is generally received two hours after the discovery of an outage and would have to be actively checked throughout the day by 988 special facilities to stay aware of outages.<sup>126</sup> We find that this approach is far less likely to be effective at providing timely information than the direct notifications that we require today, which must be delivered within 30 minutes and are provided directly to the affected special facilities. This approach is also consistent with the existing requirement that originating service providers must notify 911 special facilities, which will help minimize costs, promote efficiency, and avoid confusion among providers.<sup>127</sup>

30. We acknowledge concerns that a 988 outage notification requirement for originating service providers could result in SAMHSA, the VA, and the 988 Lifeline administrator receiving "tens of thousands" of outage notifications annually, which could be overwhelming and could undermine effective

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<sup>120</sup> BRETSA Comments at 9.

<sup>121</sup> *See 988 Outage NPRM* at para 23.

<sup>122</sup> Veterans Crisis Line Comments at 1; SAMHSA Comments at 1-2.

<sup>123</sup> Southern Linc Reply Comments at 4. *See also* NCTA Reply Comments at 2-3, T-Mobile Reply Comments at 5.

<sup>124</sup> Vibrant Comments at 3-4. ATIS argues that "[e]ven if a caller's area code is the same as a crisis center that is located in a current outage area, that call will be processed and forwarded to that center because 988 is functioning as expected." ATIS Reply Comments at 2. We find that this will not be true in situations in which there is an outage in the network that provides telecommunications service to the local crisis center. In those situations, local crisis centers will be unable to receive any calls and a reroute would be necessary. Further, it may nonetheless be necessary to reroute 988 calls to other crisis centers if an outage significantly degrades, but does not completely prevent, the delivery of calls to a crisis center.

<sup>125</sup> T-Mobile Reply Comments at 3.

<sup>126</sup> *See* 47 CFR § 4.9.

<sup>127</sup> *See* ATIS Comments at 8; USTelecom Comments at 6; CTIA Comments at 6; CTIA Reply Comments at 7-10; WA Dept. Health and HCA Comments at 5; Vibrant Comments at 5.

outage response.<sup>128</sup> As Verizon notes, hundreds of outages occur on originating service providers' networks every day, and notifications for those outages are split across thousands of PSAPs across the country.<sup>129</sup> If every one of those outage notifications were sent to SAMHSA, the VA, and the 988 Lifeline administrator by phone and e-mail daily, then they presumably would need significant, dedicated resources to receive and act on those notifications.<sup>130</sup> However, the record supports the conclusion that 988 special facilities have such resources in place and will be able to handle the volume of notifications. SAMHSA and Vibrant state that despite the high volume, Vibrant has access to continuous monitoring tools and can develop the necessary capabilities to be able to ingest these notifications.<sup>131</sup> We urge service providers to collaborate with 988 special facilities to ensure that 988 notifications are provided in a format that best facilitates rapid analysis and action.<sup>132</sup>

31. We decline to require covered 988 service providers to notify originating service providers about 988 Lifeline outages and decline to require originating service providers to notify covered 988 service providers about 988 Lifeline outages. As some commenters note, covered 988 service providers often compete with originating service providers or provide services to their competitors.<sup>133</sup> As a consequence, a notification requirement would mandate the sharing of competitively sensitive information.<sup>134</sup> We share this concern, as well as the concern that the risk of sharing sensitive information directly with competitors and other individuals unnecessarily may slow down providers' notification processes or lead to the removal of information from outage reports that might otherwise be beneficial to a 988 special facility.<sup>135</sup> We note that the Washington State Department of Health and Health Care Authority supports a requirement that originating service providers provide notice to covered 988 service providers of 988 outages as "these notices would provide for increased coordination between the carriers for remedying the outage and coordinating workarounds."<sup>136</sup> CX360 argues that originating service providers should be required to notify covered 988 service providers about outages because the latter "lack[s] independent insight into the operations on OSPs' networks"<sup>137</sup> and notifications will allow it to "better understand what is happening upstream so it can react quickly and ensure its service is working correctly," and "troubleshoot any issues without needing to contact a provider earlier in the call path,

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<sup>128</sup> Verizon Comments at 3-4. *See also* USTelecom Comments at 5-6; T-Mobile Comments at 5-7; CTIA Reply Comments at 8 (asserting that ATIS has estimated that 988 special facilities may receive up to 79 notifications of 988 outages per day, 2,400 per month, and 28,800 per year). USTelecom argues that the actual number of outage notifications could be up to three times ATIS's estimate if there is an initial notification, and update, and a final resolution notification. USTelecom Reply Comments at 4.

<sup>129</sup> Verizon Comments at 3-4.

<sup>130</sup> *See* USTelecom Comments at 5-6; CTIA Reply Comments at 6.

<sup>131</sup> SAMHSA Reply Comments at 2; Vibrant Reply Comments at 2.

<sup>132</sup> *Id.* (stating that electronic notifications must come through in a machine-readable format to facilitate automated review).

<sup>133</sup> T-Mobile Comments at 7; CCA Comments at 6.

<sup>134</sup> *Id.*; *see also* *NORS/DIRS Information Sharing R&O*, 36 FCC Rcd at 6137, para. 2 (noting that outage information reported in NORS is given presumptively confidential treatment due to reasons related to competitive competitiveness and national security).

<sup>135</sup> CX360 argues that it should receive outage notifications from originating service providers because it is not a telecommunications service provider and therefore competitive concerns do not arise. CX360 Ex Parte at 1-2. Even if CX360's characterization of its own position in the market is accurate, we find that the record supports the conclusion that, in general, covered 988 service providers often compete with originating service providers or provide services to their competitors.

<sup>136</sup> WA Dept. Health and HCA Comments at 5. *See also* Vibrant Comments at 5.

<sup>137</sup> CX360 Reply Comments at 3.

leading to a more efficient resolution of any problems.”<sup>138</sup> We disagree, as we find it unlikely that these actions will help ensure the availability of the 988 Lifeline. If an outage occurs in an originating service provider’s network, we do not see how it would be beneficial for a covered 988 service provider to begin “troubleshooting issues” within its own separate, downstream network, nor is it clear how those actions would help resolve the originating provider’s outage or otherwise help 988 callers successfully reach the Lifeline. In any event, we believe the potential negative impacts on the effectiveness of outage notifications outweigh these possible benefits.

32. We also decline to require that PSAPs be notified about 988 outages. While some commenters argue that 988 outage notifications would prepare PSAPs for potential call volume increases and give them the necessary situational awareness to handle those calls in an appropriate manner,<sup>139</sup> our rules already require PSAPs to be notified about outages that potentially affect 911 special facilities, including general network outages.<sup>140</sup> In addition, these notifications will not provide PSAPs with situational awareness about any routing decisions made by the 988 Lifeline administrator to address the outage. To the extent that an outage might occur in the network of a covered 988 service provider, it is unclear that the benefit of preparing PSAPs for potential call volume increases related to an outage would outweigh the burden of requiring the provider to maintain contact information and then notify thousands of PSAPs nationwide. Moreover, because call routing for 988 is currently based on area code of the caller, rather than geographic location, the ability to identify the appropriate PSAP for such notice may not be logistically feasible in all instances. We also decline to adopt the approach supported by APCO, which would only require 988 outage notifications be made to those PSAPs that opt-in to receiving them.<sup>141</sup> We believe it would be too administratively burdensome for each service provider to continuously track and update the list of PSAPs across the country that have opted-in to receiving 988 outage notifications, particularly in light of the limited benefits.

33. We require covered 988 service providers and originating service providers to notify 988 special facilities with the same content, by the same means, with the same timing, and with the same frequency as our rules require for 911 outage notifications.<sup>142</sup> Most commenters agree that harmonizing these requirements will have the effect of minimizing the cost and other impacts of the new notification requirements on service providers by allowing them to make notifications by efficiently using existing systems and processes.<sup>143</sup> We further note that here, as in the 911 context, parties may mutually agree to alternate means of notification.

34. We decline to require certain modifications to these requirements proposed by commenters. We reject CX360’s proposal that we adopt a “safe harbor” or otherwise modify the content of outage notifications to allow providers to merely notify 988 facilities within 30 minutes that “an issue has been identified and is being actively investigated, with additional information to be provided later.”<sup>144</sup>

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<sup>138</sup> CX360 Ex Parte at 2.

<sup>139</sup> Mental Health America Comments at 2; WA Dept. Health and HCA Comments at 5; NENA Comments at 2-3; BRETSA Comments at 9.

<sup>140</sup> See 47 CFR § 4.5(e)(1); *PSAP Notification Order* at 7-8, para. 11.

<sup>141</sup> APCO Reply Comments at 2-3.

<sup>142</sup> See 47 CFR § 4.9.

<sup>143</sup> See ATIS Comments at 8; USTelecom Comments at 6; CTIA Comments at 6; CTIA Reply Comments at 7-10; WA Dept. Health and HCA Comments at 5; Vibrant Comments at 5.

<sup>144</sup> CX360 Reply Comments at 12. See also *id.* at 15, n.35 (arguing that covered 988 service providers should only be required to report the following information and only to the extent it is known at the time of the outage notification is made: an identifier unique to each outage; the name, telephone number, and email address at which the notifying service provider can be reached for follow-up; the name of the service provider(s) experiencing the outage; the date and time when the incident began (including a notation of the relevant time zone); the type of communications service(s) affected; and a statement of whether the message is the notifying service provider’s

(continued....)

This approach would greatly reduce the amount of actionable information available to 988 special facilities and therefore would not serve as an effective notification. We also decline to require notifications to include contact information for those callers that failed to connect to the 988 Lifeline since the outage began.<sup>145</sup> We agree with commenters that it is important for those individuals to receive the support they need, but believe more study is needed to determine whether it is technically feasible to require service providers to obtain and share that information as part of the outage notification process, as well as to understand any costs that might be attendant in obtaining and sharing such information. We acknowledge, as CTIA asserts, that wireless network equipment affected by an outage often will not be able to identify devices that cannot connect to the network, which could make compliance with such a requirement challenging.<sup>146</sup> While several commenters also argue that the phone numbers of individuals who try, but fail to reach 988 is not currently available to providers,<sup>147</sup> we suspect that it may be technically feasible for providers to develop these capabilities, so we plan to continue to explore the matter.

35. We disagree with those commenters that argue that a 30-minute timeframe to provide 988 outage notifications is too fast, as well as those that argue that it is too slow. We find, as we previously have for 911 outage notifications, that a 30-minute timeframe strikes a balance between the need for timely and actionable 988 outage information and the accuracy of that information.<sup>148</sup> We believe the comments of the Veterans Crisis Line, which highlights that statistically as many as three deaths by suicide occur within thirty minutes,<sup>149</sup> and the comments of CCA, which argues that 30-minute notifications may result in rushed analysis and inaccurate reporting,<sup>150</sup> illustrate why a balance must be struck between speed and accuracy. We agree with those commenters who argue that 30 minutes is the best way to strike that balance.<sup>151</sup>

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initial notification to the 988 special facility, an update to an initial notification, or a message intended to be the notifying service provider's final assessment of the outage).

<sup>145</sup> Mental Health America at 1; SAMHSA Comments at 2; SAMHSA Reply Comments at 1; FailSafe Communications Reply Comments at 2-3; Vibrant Comments at 3; Vibrant Reply Comments at 1-2.

<sup>146</sup> CTIA Reply Comments at 9-10. *See also* ATIS Reply Comments at 2-3 (arguing that "there are many situations in which service providers would not know or be able to determine this information").

<sup>147</sup> USTelecom argues that these phone numbers are unavailable because the rules we adopt today only require reporting and notification for outages in which no calls can be placed. USTelecom Reply Comments at 5. As noted above, this is incorrect as "outages" include any "significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network." 47 CFR § 4.5(a).

<sup>148</sup> *PSAP Notification Order* at 13-14, para. 22; *Improving 911 Reliability, Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket Nos. 13-75 and 11-60, 28 FCC Rcd 17476, 17527, paras. 143-144 (2013).

<sup>149</sup> Veterans Crisis Line Comments at 1. *See also* SAMHSA Reply Comments at 2 (proposing that covered 988 service providers be required to send notifications about outages in under 15 minutes); Vibrant Reply Comments at 2 (same).

<sup>150</sup> CCA Comments at 2-3. *See also* ATIS Comments at 9 ("ATIS NRSC recommends that initial notifications should be required within four (4) hours of discovery to allow 988 covered service providers with more time to evaluate outages, thereby minimizing the number of notifications that would subsequently have to be withdrawn."); CX360 Reply Comments at 11-13; USTelecom Reply Comments at 4-5 ("less than 30 minutes is not sufficient to gain visibility into the circumstances surrounding the outage, including the extent of the network affected and any potential causes").

<sup>151</sup> Mental Health America Comments at 1; BRETSA Comments at 8.

36. We disagree with CCA that a 30-minute notification timeframe would be unreasonable and unrealistic, particularly for originating service providers utilizing vendors for 988 solutions.<sup>152</sup> Thirty minutes has already proven to be a realistic timeframe for covered 911 service providers to gather clear and useful information about network outages to include in a notification, even though such providers also frequently contract for services from vendors.<sup>153</sup> We also find that originating service providers serving fewer customers will have to experience longer outages to reach the threshold required for notification, which effectively provides more time for those providers to investigate the outage.<sup>154</sup> We therefore see no reason why it would be overly burdensome for originating service providers to provide accurate notifications within a similar timeframe for 988 outages. To the extent that service providers find that their own vendors' coordination failures are causing them to violate the Commission's outage notification requirements we believe that is a matter to be resolved between those parties and does not change the service provider's obligation to comply with the Commission's notification requirements we adopt today.

37. As an alternative to the requirement we adopt today, CCA proposes that we adopt at minimum an approach that sets 988 outage notification deadlines based on the time when actual originating service providers are notified about outages by their vendors or underlying providers.<sup>155</sup> This alternative is incompatible with the goal of providing 988 special facilities with timely outage notifications because it would excuse originating service providers from reporting outages that their vendors fail to disclose to them. We believe this approach would disincentivize originating service providers from learning about outages on their vendors' networks, eliminate consistency as to when 988 special facilities can expect to receive outage reports, and delay 988 special facilities' receipt of outage reports, which would in turn delay any actions they may take to ensure the 988 Lifeline's availability. Moreover, we find it does not serve the public interest to create a means for providers to "contract away" their obligations by allowing the use of a vendor to alleviate a regulatory obligation. As stated above, the Commission has long held that licensees and other regulatees are responsible for the acts and omissions of their contractors,<sup>156</sup> and we decline to adopt an approach to 988 outage notification that would disturb that holding.<sup>157</sup> We also reject CX360's proposal that follow-up notifications not be due until seven to fourteen days after an initial notification is provided,<sup>158</sup> as delaying critical details about an outage for an

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<sup>152</sup> CCA Comments at 2-3; *see also* Letter from Angela Simpson, Senior Vice President and General Counsel, Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 23-5 et al., at 2-3 (filed July 13, 2023) (CCA Ex Parte).

<sup>153</sup> *See* 47 CFR § 4.9(h).

<sup>154</sup> For example, a wireless provider with 5,000 subscribers would need to experience an outage affecting all of those customers for three hours to reach the 900,000 user-minutes threshold. If that outage potentially affected a 988 special facility and was discovered immediately, then the provider would be required to deliver a notification about the outage three hours and thirty minutes after the outage began. We expect that providers would begin investigating an outage as soon as it is discovered, not only after the threshold is met.

<sup>155</sup> CCA Comments at 4.

<sup>156</sup> *See* *Eure Family Limited Partnership, Memorandum Opinion and Order*, 17 FCC Rcd 21861, 21863-64 (2002), citing *MTD, Inc.*, 6 FCC Rcd 34, 35 (1991), *Wagenvoort Broadcasting Co.*, 35 F.C.C.2d 361 (1972). *See also* Amendment of the Commission's Rules to Provide Spectrum for the Operation of Medical Body Area Networks, *First Report and Order and Further Notice of Proposed Rulemaking*, 17 FCC Rcd 6422, 6439 n.108 (2012); *Courier Communications Corp.*, 23 FCC Rcd 2593, 2595 n.25 (EB 2008).

<sup>157</sup> The findings we make in this Report and Order are limited to the 988 outage notification requirements we make today. We reserve judgment on the Petition for Reconsideration filed by CCA regarding the Commission's November 2022 Report and Order harmonizing 911 existing outage notification requirements. *See* CCA Petition for Reconsideration, PS Docket Nos. 15-80 and 13-75, ET Docket No. 4-35, (filed Mar. 17, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/1031746539270>.

<sup>158</sup> CX360 Reply Comments at 14-15.

entire week, which is likely long after the outage has been resolved, clearly does not serve the goals of improving 988 special facilities' awareness and ability to address outages.

38. We require covered 988 service providers and originating service providers to exercise special diligence to maintain accurate, up-to-date contact information for 988 special facilities, just as our rules require for 911 special facilities.<sup>159</sup> "Special diligence" is the diligence expected from a person practicing in a particular field of specialty.<sup>160</sup> The Commission has imposed this higher level of care in circumstances where a failure to take sufficient care can lead to particularly serious public harms.<sup>161</sup> In these circumstances, special diligence would require, for example, actively seeking to confirm the accuracy of contact information and not relying on the absence of a response. Once providers have a 988 special facility contact list in place, special diligence would require them to annually verify the accuracy of their contact list to ensure it is up-to-date.<sup>162</sup> As we have found in the 911 context, we today find for 988 outage reporting that requiring a higher level of care than reaching out to the prior contact is imperative to ensure public safety, and requiring this higher level of care will incentivize providers to ascertain and update such contact information.<sup>163</sup> We also find that this requirement is significantly less burdensome than the similar requirement pertaining to 911 special facility contact information because we only designate three 988 special facilities for which contact information must be maintained. We disagree with ATIS's view that it would be extremely difficult to apply special diligence to the maintenance of 988 contact information because "there are no subject matter experts practicing in the field of 988 routing or 988 contact information maintenance."<sup>164</sup> The diligence our rules require is that of a communications provider that, through their experience in offering the services that emergency communications depend on, understands that failure to provide effective notifications about outages could result in harm to life and property. Accordingly, we expect that 988 service providers and originating service providers would take the steps necessary to ensure that the contact information they maintain for 988 special facilities is accurate and effective as the failure to provide effective notice to the appropriate contact could result in harm to life and property.

39. We decline at this time to require covered 988 service providers or originating service providers to file 988 reliability certifications to ensure the network supporting the 988 Lifeline remains resilient and robust. We agree with ATIS that 988 is different from 911 in structure and organization; therefore the Commission's existing 911 network reliability certification requirements could not easily be applied to 988 reliability.<sup>165</sup> We believe additional study of threats to the 988 Lifeline is necessary to determine what next steps should be taken, if any, to promote reliability.<sup>166</sup> We expect that the 988 outage

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<sup>159</sup> 47 CFR 4.9(h)(1); *see also PSAP Notification Order* at paras. 9, 32.

<sup>160</sup> *See Black's Law Dictionary* (11<sup>th</sup> ed., 2019).

<sup>161</sup> *See, e.g., Revocation of License of CS WIGO, Inc.*, Decision, 85 FCC 2d 196, 202, para. 16, n.26 (1981) ("[A] broadcaster must . . . exercise special diligence to ensure that the promotion or contest is not in fact conducted as a lottery."); *Application of KMAP, Inc.*, Memorandum Opinion and Order, 63 FCC 2d 470, 480, para. 34 (1977) ("special diligence" required to prevent "payola"); *Crowell-Collier Broadcasting Corp.*, 14 FCC 2d 358, 358 (1966) ("special diligence" required to prevent "conflict between . . . private interests and . . . roles as employees of the station").

<sup>162</sup> *See PSAP Notification Order* at 6, para. 9.

<sup>163</sup> *See Id.*

<sup>164</sup> ATIS Comments at 8-9.

<sup>165</sup> ATIS Comments at 11 ("[T]he content of 911 certification is not applicable to calls to 988 (e.g., PSAP circuit audits, backup power audits for PSAPs and 911 selective routers, and NOC aggregation audits). There are no comparable network components. ATIS NRSC also notes that there are no 988-specific network standards on which to audit."). *See also* CTIA Reply Comments at 11; USTelecom Reply Comments at 5-6.

<sup>166</sup> *Cf.* ATIS Comments at 10-11 ("Before adopting 911 certification requirements, the Commission had investigated and identified in its Derecho report the weaknesses in 911 routing that served as a basis for 911 certification. That

(continued....)



reporting requirements that we adopt today will give us additional insight to 988 reliability trends and inform future action.

40. We note that some commenters made recommendations that they argue would improve the general effectiveness and reliability of the 988 Suicide & Crisis Lifeline.<sup>167</sup> While these recommendations are outside of the scope of the 988 network outage reporting and notification requirements that we adopt today, we will keep these issues in mind as we continue to support the 988 Lifeline.

### C. Assessing the Benefits and Costs

41. We determine that the rules we adopt today concerning the reporting in NORS of outages that potentially affect 988 special facilities and the notifying of 988 special facilities about outages will result in an industry-wide one-time compliance cost of \$56,000 and an annual recurring cost of \$1,355,000. We sought comment on cost estimates in the *988 Outage NPRM* and received no persuasive objections and only one comment offering an alternative calculation in response, which we address in context below.<sup>168</sup>

42. For the reporting of 988 outages in NORS, we find that outages that potentially affect 988 special facilities fall into two categories: outages experienced by the covered 988 service providers that are responsible for providing the 988 Lifeline with the capability to receive, process, or forward 988 calls, and outages experienced by originating service providers that deliver calls to the Lifeline. Consistent with the estimate stated in the *988 Outage NPRM*, which no commenter challenged, we assume that one covered 988 service provider experiences a maximum of one reportable outage per month and we estimate an annual compliance cost for that one covered 988 service provider of \$1,000.<sup>169</sup> We find that originating service providers already submit outage reports to the Commission related to outages that affect voice telephony, which would be largely or entirely identical to the new reporting requirements, so initial compliance costs would be negligible.

43. With regard to the requirements to maintain updated contact information for 988 special facilities and to notify those facilities about outages that affect them, we estimate that the costs of compliance will also be relatively low when compared to the benefits to the public. We estimate a one-

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record included: 534 outage reports from 22 communications providers; 45 comments from stakeholders in response to the Derecho Public Notice; interviews with representatives of eight communications providers, twenty-eight PSAPs, three battery manufacturers, one generator manufacturer, numerous state and county entities; information obtained through six supplemental data requests; participation in several federal, state, and local meetings and hearings on the effects of the Derecho; and review of relevant Best Practices generated by NRSC and CSRIC. There is no comparable record for 988.”); USTelecom Comments at 6-7 (“Indeed, the Commission adopted the 911 reliability certification requirement following extensive examination of where outages affecting 911 service occurred and what caused them, and a certification requirement so tailored to the 911 network would not be meaningful in the context of the 988 Lifeline.”).

<sup>167</sup> See National Association of State 911 Administrators Comments (encouraging implementation of capabilities to route wireless or nomadic VoIP 988 calls, chats, or texts based on the location of the cellular tower); NENA Comments at 3-6 (arguing that the 988 system should “plan to eventually migrate to Next Generation 9-1-1 technologies as a matter of building a more reliable, equitable life-saving service for people with mental health crises.”); BRETSA at 2 (urging the Commission to focus on ensuring the contingent routing of 988 calls to any crisis center to which the call can be connected when ordinary 988 call routing cannot be completed); Intrado Life & Safety Reply Comments at 2-3 (arguing that “the i3 design principles for Next Generation 911 (NG911) can and should be applied to 988”); Vibrant Comments at 5 (“Vibrant encourages the Commission to allow for information that would facilitate geo-routing to be used by the 988 Lifeline.”).

<sup>168</sup> See *988 Outage NPRM* at 14-17, paras. 34-41.

<sup>169</sup> See *988 Outage NPRM* at 15, para. 37, n.80 (estimating a maximum of two hours total time to submit all required reports at a cost of \$43 per hour for a total cost estimate of \$1000  $\approx$  \$43/hr  $\times$  2 hrs  $\times$  one reportable outage per month  $\times$  12 months).

time industry-wide cost of \$56,000 to create an e-mail survey to biannually solicit 988 special facility contact information.<sup>170</sup> We do not expect more than incidental costs arising from the creation or updating of outage notification templates, as the 988 outage notification requirements that we adopt today share the same content and timing as the 911 outage notification requirements with which service providers already comply. We estimate maximum annually recurring costs of \$1,354,000, which consist of \$1,326,000 for notifying 988 special facilities of outages that potentially affect them pursuant to the requirements that we adopt today<sup>171</sup> and \$28,000 for soliciting appropriate contact information for outage notification from 988 special facilities.<sup>172</sup> We expect that no costs will be incurred related to identifying the 988 special facilities that could potentially be affected by an outage, as we have required that the same three special facilities (SAMHSA, the VA, and the 988 Lifeline administrator) be notified regardless of the geographic area affected by the outage.

44. We find that the benefits of the 988 outage reporting and notification requirements that we adopt today outweigh their associated costs. We recognize that it is difficult to quantify the value of ensuring the continuity of access to 988 Lifeline services, which includes its capacity to save lives and mitigate and prevent injuries. However, we believe the considerable public safety value of the requirements adopted today as described above will exceed the limited costs of implementation. As discussed by commenters and in the *988 Outage NPRM*, the 988 Lifeline directly benefits people in crisis and saves lives.<sup>173</sup> When the 988 Lifeline is interrupted, people's lives are put into jeopardy.<sup>174</sup> In May 2023, the 988 Lifeline answered 235,292 calls, which is an average of over 7,500 answered calls per day.<sup>175</sup> We find that the outage reporting requirements would improve public safety by providing the Commission and other impacted entities with situational awareness of 988 outages, including the magnitude and causes of those outages, and allow for the identification of network reliability trends that can help identify best practices that could improve network reliability by helping to mitigate future outages.<sup>176</sup> The notice and contact information retention requirements we adopt today are intended to ensure that when 988 calling is disrupted, parties responsible for the varying aspects of the 988 call pathway notify 988 special facilities, share critical information in a timely and standardized manner, and

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<sup>170</sup> See *988 Outage NPRM* at 16, para. 38, n.81 (estimating that for each of 3,124 providers, one worker earning \$36/hour would spend ½ hour for a total of approximately \$56,000). In its comments, SAMHSA and Vibrant both note that the 988 Lifeline administrator maintains an accurate and updated list of contacts at each crisis center and thus the estimate \$56,000 survey cost may be an overestimate. SAMHSA Comments at 1; Vibrant Comments at 4. However, as we are not requiring 988 outage notifications to be sent to individual crisis centers at this time, we do not believe the existence of this list would lower the estimated costs associated with the development of the survey.

<sup>171</sup> See *988 Outage NPRM* at 16, para. 38, n.82 (estimating that a communications equipment operator, earning \$34/hour, would spend a total of 1 hour per outage to send out two notifications for each of an estimated 39,000 outages, for a total of \$1,326,000 = \$34/hour × 1 hour × 39,000). We expect that our estimate of the cost will reduce significantly over time as the Commission collects better data on the actual number of 988 outages experienced annually.

<sup>172</sup> See *988 Outage NPRM* at 16-17, para. 38, n.83 (estimating that for each of 3,124 providers, one worker earning \$36/hour would spend ¼ hour for a total of approximately \$28,000).

<sup>173</sup> See *988 Outage NPRM* at 14, paras. 34-36; T-Mobile Comments at 1; USTelecom Comments at 1; Mental Health America Comments at 1-2; CTIA Comments at 2, 3, 7; NENA Comments at 1.

<sup>174</sup> See VCL Comments at 1 (“[E]very minute of downtime is a minute we that VCL cannot try to save someone’s life.”); Mental Health America Comments at 1-2; NENA Comments at 2-3 (“It is important that those with a mental health crisis understand if the 988 service capability is impaired—and that they don’t discover this fact when they do have a mental health crisis and attempt to reach the service.”).

<sup>175</sup> SAMHSA Substance Abuse and Mental Health Services Administration, 988 Suicide & Crisis Lifeline, 988 Lifeline Performance Metrics, <https://www.samhsa.gov/find-help/988/performance-metrics#answered> (last visited June 7, 2023).

<sup>176</sup> See BRETSA Comments at 7; T-Mobile Comments at 3-4.

hasten the timely restoration of 988 Lifeline services.<sup>177</sup> We describe below how even a very small increase in the speed of restoration of access to 988 Lifeline services could provide benefits that outweigh the costs of adopting the requirements.

45. The benefits of reducing suicide via 988 are driven by the staggering societal costs of deaths by suicide. In 2021, there were over 48,000 deaths by suicide in the United States, which, as noted above, averages out to approximately one death every 11 minutes.<sup>178</sup> For every suicide death, there were 3 hospitalizations for suicide attempts, 8 suicide-related emergency department visits, and 38 self-reported suicide attempts.<sup>179</sup> Suicides and suicide attempts annually impose billions of dollars in medical, first-responder, productivity-loss, and lost-quality-of-life costs on society.<sup>180</sup> In addition to lives saved and injuries avoided, time-saving network outage protocols will also alleviate the devastating emotional toll wrought by suicide on victims' families, friends, and communities.

46. Notifying SAMHSA, the VA, and the 988 Lifeline administrator of the disruption of access to 988 Lifeline services will allow these parties to manage the impact of outages on their operations, quickly notify the public of the 988 service outage, and promote alternative ways for people to access 988 Lifeline services during the outage, which may include notifying the public of alternative call numbers, or encouraging people to text to 988 or use the <https://988lifeline.org/> link to chat with a crisis management counselor. This, in turn, will enhance the 988 Lifeline's ability to direct scarce resources toward mitigating outages rather than seeking out information as to whether an outage is occurring, the scope of such an outage, or its impact. One of the benefits of implementing short dialing for calls and text messages to the Lifeline was to reduce the burdens on 911 and other emergency services arising from calls related to mental health and suicide. We believe that the rules we adopt today will further reduce the burden on 911 and other emergency services by promoting 988 reliability so that 988 calls go through when individuals need 988 service the most.<sup>181</sup>

47. We disagree with Southern Linc's argument that the rules we adopt today place unnecessary regulatory burdens on smaller non-nationwide providers, which they assert will be strained due to the same personnel being responsible for both reporting and responding to outages, as well as complying with other regulatory requirements.<sup>182</sup> As explained above, we find that the significant public safety benefits arising from the requirements we adopt today outweigh their associated burdens, particularly since the cost of these requirements is likely to be relatively low due to commonalities with existing outage reporting requirements. We again note that the outages experienced by smaller providers

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<sup>177</sup> SAMHSA Comments at 1-2; ATIS Comments at 6; NENA Comments at 2; USTelecom Comments at 5.

<sup>178</sup> Centers for Disease Control and Prevention, *Facts About Suicide*, <https://www.cdc.gov/suicide/facts/index.html> (last visited June 12, 2022).

<sup>179</sup> *Id.*

<sup>180</sup> See Ian R.H. Rockett, et al., *Escalating costs of self-injury mortality in the 21<sup>st</sup> century United States: an interstate observational study*, 23 BMC Public Health, <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-023-15188-8>; Centers for Disease Control and Prevention, *Health Topics – Suicide Prevention*, <https://www.cdc.gov/policy/polaris/healthtopics/suicide/index.html> (last visited June 13, 2023).

<sup>181</sup> In the Commission's proceeding designating 988 as the 3-digit dialing code for the Lifeline, the North American Numbering Council (NANC) issued a report considering each existing N11 code, and while the Commission determined designating a unique 3-digit code was superior to using an existing code, NANC determined that "[a]llowing 211 operators to act as a first line of defense in suicide prevention calls might alleviate the pressure on 911 call takers and allow the caller to obtain assistance for other non-suicide related services in addition to mental health referrals." *Report and Recommendation on the Feasibility of Establishing a 3-Digit Dialing Code for a National Suicide Prevention and Mental Health Crisis Hotline* from Travis Kavulla, Chair, North American Numbering Council, to Kris Anne Monteith, Chief, FCC Wireline Competition Bureau, WC Docket No. 18-336, CC Docket No. 92-105, at 7 (May 10, 2019) (NANC Report).

<sup>182</sup> Southern Linc Reply Comments at 5. See also CCA Ex Parte at 2-3.

with fewer subscribers would generally take longer to meet the required reporting thresholds, which would effectively provide more time to investigate an outage before it is required to be reported. Southern Linc further accuses the Commission of “assuming that all employees of a provider’s affiliates – no matter how distant – should be considered ‘available resources’ to support the provider’s compliance efforts, regardless of whether the employees of those affiliates have any responsibility to support wireless network operations.”<sup>183</sup> We do not make this assumption. If we were to assume that service providers already had available staff to implement the requirements that we adopt today, then the costs to service providers would be estimated to be zero. To the contrary, the cost estimates that we make above are grounded in the additional labor hours and wages needed to comply with the requirements that we adopt today.

#### **D. Legal Authority**

48. In the *988 Outage NPRM*, we sought comment on potential sources of legal authority under titles II and III and section 4(i) of the Communications Act and Section 104 of the Twenty-First Century Communications and Video Accessibility Act (CVAA) for Commission action to promote the reliability and resiliency of the 988 Lifeline.<sup>184</sup> We noted that Congress amended section 251 of the Communications Act of 1934 to specify 988 as the universal telephone number for the National Suicide Prevention Lifeline<sup>185</sup> and that our proposed rules were intended to ensure that the Lifeline remains operational in accordance with the policies identified by Congress in that 2020 legislation and that any outages are quickly identified and reported, thus promoting the safety of life and property. We now find that section 4 and section 251 provide ample authority for the reporting and notice obligations that we adopt here.

49. Title II of the Communications Act gives the Commission clear authority over service providers, including covered 988 service providers, to the extent that they provide interstate common carrier service. The statute provides that “practices” for and in connection with interstate common carrier services must be “just and reasonable,”<sup>186</sup> and that a common carrier must “provide itself with adequate facilities for the expeditious and efficient performance of its service as a common carrier.”<sup>187</sup> The Commission is also authorized to “inquire into the management of the business of all carriers and obtain from them full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created.”<sup>188</sup>

50. We further note that the Communications Act directs that “[f]or the purpose of obtaining maximum effectiveness from the use of radio and wire communications in connection with safety of life and property,” the Commission “shall investigate and study all phases of the problem and the best methods of obtaining the cooperation and coordination of these systems.”<sup>189</sup> Both originating service providers and covered 988 service providers play critical roles in ensuring the cooperation and coordination of the 988 system, and the Commission has previously relied on section 4(n) as providing

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<sup>183</sup> *Id.* at 6.

<sup>184</sup> *988 Outage NPRM* at 14, para. 33.

<sup>185</sup> 47 U.S.C. § 251(e)(4) (designating, as part of the Commission’s numbering authority, 988 as the universal telephone number for the national suicide prevention and mental health crisis hotline system).

<sup>186</sup> 47 U.S.C. § 201(b). Section 201(b) also provides the Commission authority to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of [the Communications Act].” *Id.*; see *AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366, 378 (1999).

<sup>187</sup> 47 U.S.C. § 214(d).

<sup>188</sup> 47 U.S.C. § 218.

<sup>189</sup> 47 U.S.C. § 154(n).

authority to require reporting of interconnected VoIP outages,<sup>190</sup> and to require emergency alerting plans to allow the Commission and other stakeholders “to more easily review and identify gaps” in emergency alerting architecture, “detect problems, and take measures to address these shortcomings.”<sup>191</sup> By requiring reporting of outages affecting access to 988 by both originating service providers and covered 988 service providers we are enabling the Commission’s ongoing review of sources of disruption to this critical emergency service, which in turn will contribute to greater reliability going forward. We conclude that these sources provide us with sufficient authority for the 988 outage reporting requirements that we adopt today.

51. Additionally, we find that imposing outage reporting requirements on covered 988 service providers is reasonably ancillary to our responsibility to ensuring that the 988 Lifeline service operates effectively.<sup>192</sup> To exercise ancillary authority “two conditions [must be] satisfied: (1) the Commission’s general jurisdictional grant under Title I [of the Communications Act] covers the regulated subject and (2) the regulations are reasonably ancillary to the Commission’s effective performance of its statutorily mandated responsibilities.”<sup>193</sup> The functions at issue here involve communications by wire or radio in that they either take the form of such transmission or involve the use of equipment for purposes of facilitating transmission by wire or radio.<sup>194</sup> We conclude that these reporting requirements are necessary to carry out our responsibility for the proper functioning of the 988 Lifeline service under section 251(e)(4). Obtaining outage information from covered 988 service providers is necessary because only the covered 988 service provider has visibility into outages that occur at the point where the covered 988 service provider processes and forwards the call. Adopting outage reporting and notice requirements for entities that have the ability to receive, process, or forward calls to the 988 Lifeline furthers the Commission’s goals to strengthen the 988 Lifeline’s reliability and help save the lives of those who may be experiencing a suicidal crisis or mental health-related distress.

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<sup>190</sup> *The Proposed Extension of Part 4 of the Commission’s Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, PS Docket No. 11-82, 27 FCC Rcd 2650, 2676, para. 61 (2012).

<sup>191</sup> See, e.g., *Amendment of Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, 33 FCC Rcd 3627 at paras. 9, 56 (2018) (citing to section 4(n), then 4(o), as a source of authority for the Commission to adopt a system for filing of State Emergency Alert System plans).

<sup>192</sup> 47 U.S.C. § 154(i) (“The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions.”); § 201(b) (“The Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this [Act].”).

<sup>193</sup> *Am. Library Ass’n v. FCC*, 406 F.3d 689, 691-92 (D.C. Cir. 2005).

<sup>194</sup> 47 U.S.C. § 153(40) (radio communication “means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, *including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission*” (emphasis added)); 47 U.S.C. § 153(59) (wire communication “means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, *including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission*” (emphasis added)). Our focus on the use of equipment specifically for purposes of enabling transmission of wire or radio communication distinguishes the circumstances here from the facts of *Am. Library Ass’n*. See *Am. Library Ass’n*, 406 F.3d at 700 (holding that “the agency’s general jurisdictional grant does not encompass the regulation of consumer electronics products that can be used for receipt of wire or radio communication when those devices are not engaged in the process of radio or wire transmission”).

52. We disagree with CX360, a company that contracts with the 988 Lifeline administrator to provide voice and SMS-based services for communications after they reach the 988 Lifeline,<sup>195</sup> that the Commission lacks authority to require the reporting of outages by entities that provide the 988 Lifeline with the capability to receive, process, or forward calls.<sup>196</sup> As outlined above, the Commission clearly has authority to impose these reporting and notice requirements on CX360, on any entities that offer to the public for a fee “transmission between points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received,”<sup>197</sup> and on entities that route calls from the 988 Lifeline to the appropriate crisis center(s), following routing instructions provided by the 988 Lifeline administrator. Even though the responsibilities of an originating service provider may conclude once a call reaches the 988 Lifeline, this does not mean that the services offered by other communications providers within the 988 call path that are necessary to connect the caller to their local crisis center, the Veterans Crisis Line, or other call taker, a service which CX360 states that it provides,<sup>198</sup> cannot be regulated by the Commission.

53. We specifically reject CX360’s argument that entities that “process” calls for the 988 Lifeline cannot be regulated by the Commission.<sup>199</sup> We find that the processing of 988 calls – that is to say, conducting the necessary technical steps to prepare the call for forwarding to a crisis center or the Veterans Crisis Line and then transmitting those calls to that crisis center – falls within our authority to regulate via the reporting and notice requirements we adopt here. To the extent that an entity uses an interactive voice response system to support these capabilities, we acknowledge that such an offering may acquire, store, or process information related to how the call should be routed.<sup>200</sup> But we conclude that we have authority to require outage reporting and notice under the specific circumstances here from entities performing functions like CX360.

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<sup>195</sup> CX360 Comments at 2. CX360 asserts in its July 14, 2023 *ex parte* letter that it is not a telecommunications services provider because it does not engage in the routing or transmission of 988 calls. CX360 Ex Parte at 1-2. However, the letter also states that CX360 purchases telecommunications services from telecommunications service providers for the purpose of transporting 988 calls to the appropriate crisis response centers. *Id.* at 2. Accordingly, and consistent with its original comments, we find that the 988 Lifeline administrator contracts with CX360 for voice and SMS-based services for communications. In any case, our analysis ultimately does not turn on whether CX360 specifically provides transmission as an input to the 988 Lifeline, but on whether the functions it performs do serve as inputs to the 988 Lifeline service. CX360’s arguments do not persuade us to adopt a different view of its role in that regard.

<sup>196</sup> See, e.g., CX360 Comments at 10-11 (arguing that “nothing in the authority to designate 988 as the universal telephone number confers upon the Commission the authority to ensure the Lifeline ‘remains operational’ or to enforce Congress’ policies for its operation” and arguing that “the Commission’s Title II and Title III jurisdiction does not extend to call centers, information service providers or software used by the 988 Lifeline Administrator once a 988 call has reached the 988 Lifeline.”).

<sup>197</sup> 47 U.S.C. § 153(50), (53) (“The term ‘telecommunications service’ means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.”).

<sup>198</sup> CX360 Comments at 2 (“CX360 contracts with the 988 Lifeline Administrator . . . to provide voice and SMS-based services for communications after they reach the 988 Lifeline.”).

<sup>199</sup> CX360 Comments at 10-11 (“The Commission’s Title II and Title III jurisdiction does not extend to call centers, information service providers or software used by the 988 Lifeline Administrator once a 988 call has reached the 988 Lifeline.”).

<sup>200</sup> 47 U.S.C. § 153(24) (“The term ‘information service’ means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.”).

### E. Timelines for Compliance

54. We adopt deadlines for originating service providers to comply with the revisions to section 4.9 that we adopt today as the latest of (1) 30 days after the Commission issues a Public Notice announcing that OMB has completed review of any new information collection requirements associated with the adopted Report and Order; (2) 90 days after the publication of the summary of this Report and Order in the Federal Register, or (3) the date the Commission's updated 911 outage reporting and notification rules go into effect.<sup>201</sup> Consistent with our proposal in the *988 Outage NPRM*,<sup>202</sup> we agree with Vibrant that the first two elements of this timeline provide sufficient time for compliance,<sup>203</sup> as we find that the revisions proposed today constitute only minor changes to existing notice and reporting requirements for 911 network outages, and it will take a modest amount of time for originating service providers to adjust their processes to satisfy the proposed rules. We also agree with USTelecom that it is sensible to harmonize the compliance timeline for the rules that we adopt today with the compliance timeline for the 911 outage notification requirements adopted in November 2022 given the similarities between them.<sup>204</sup>

55. We are persuaded by CX360 that some covered 988 service providers may not have existing NORS filing or outage notification obligations and would need additional time to develop the capabilities and processes necessary to comply with rules that we adopt today.<sup>205</sup> Accordingly, we agree with CX360 that covered 988 service providers should be granted six additional months to come into compliance.<sup>206</sup> We adopt deadlines for covered 988 service providers to comply with the rules we adopt today as the latest of (1) 30 days after the Commission issues a Public Notice announcing that OMB has completed review of any new information collection requirements associated with the adopted Report and Order; (2) nine months after the publication of the summary of this Report and Order in the Federal Register; or (3) the date the Commission's updated 911 outage reporting and notification rules go into effect.<sup>207</sup>

### IV. PROCEDURAL MATTERS

56. *Paperwork Reduction Act Analysis.* These requirements constitute new and modified information collections. They will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).<sup>208</sup> OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. This document will be submitted to OMB for review under Section 3507(d) of the PRA. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we previously sought, but did not receive, specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission does not believe that the new or

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<sup>201</sup> *PSAP Notification Order* at 17-18, paras. 32-33 (requiring compliance 120 days after publication of a notice in the Federal Register following completion of Paperwork Reduction Act review by OMB). Changes to definitions in 47 CFR §§ 4.3 and 4.5 will become effective 30 days after publication of a summary of this Order in the Federal Register.

<sup>202</sup> *988 Outage NPRM* at 18, para. 42.

<sup>203</sup> Vibrant Comments at 6.

<sup>204</sup> Letter from Morgan E. Reeds, Director, Policy & Advocacy, USTelecom, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 23-5 et al., at 1 (filed July 13, 2023) (USTelecom Ex Parte).

<sup>205</sup> CX360 Reply Comments at 8.

<sup>206</sup> *Id.*

<sup>207</sup> *PSAP Notification Order* at 17-18, paras. 32-33 (requiring compliance 120 days after publication of a notice in the Federal Register following completion of Paperwork Reduction Act review by OMB).

<sup>208</sup> 44 U.S.C. § 3507(d).



modified information collection requirements we adopt here will be unduly burdensome on small businesses.

57. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA)<sup>209</sup> requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>210</sup> Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the potential impact of the rule and policy changes adopted in the *Report and Order* on small entities. The FRFA is set forth in Appendix B.

58. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this *Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

59. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

60. *Additional Information.* For additional information on this proceeding, contact Shabbir Hamid, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418-2328, or by email to [Shabbir.Hamid@fcc.gov](mailto:Shabbir.Hamid@fcc.gov).

## V. ORDERING CLAUSES

61. ACCORDINGLY IT IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 4(j), 4(n), 201(b), 214, 218, 251(e)(3), 251(e)(4), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, and 403, of the Communications Act of 1934, as amended, and sections 3(b) and 6 of the Wireless Communications and Public Safety Act of 1999, as amended, 47 U.S.C. §§ 151, 154(i), 154(j) 154(n), 201(b), 214, 218, 251(e)(3), 251(e)(4), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, 403, 615, 615a-1, the National Suicide Hotline Improvement Act of 2018, Pub. L. No. 115-233, 132 Stat. 2424 (2018), and the National Suicide Hotline Designation Act of 2020, Pub. L. No. 116-172 (2020), this *Report and Order* IS hereby ADOPTED.

62. IT IS FURTHER ORDERED that the amendments of the Commission’s Rules as set forth in Appendix A are ADOPTED, effective 30 days after publication in the Federal Register, except for the amendments to 47 CFR § 4.9. The amendments to 47 CFR § 4.9 will not become effective until OMB completes any review that the Public Safety and Homeland Security Bureau determines is required under the Paperwork Reduction Act and the Public Safety and Homeland Security Bureau announces an effective date consistent with § III.E above by subsequent Public Notice.

63. IT IS FURTHER ORDERED that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

64. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Evaluation and Records Management, SHALL SEND a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. § 801(a)(1)(A).

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<sup>209</sup> 5 U.S.C. § 603. The RFA, 5 U.S.C. § 601 et seq., has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

<sup>210</sup> 5 U.S.C. § 605(b).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

## APPENDIX A

### Final Rules

For the reasons discussed above, the Federal Communications Commission amends 47 CFR part 4 as follows:

#### PART 4 – DISRUPTIONS TO COMMUNICATIONS

1. The authority citation for part 4 continues to read as follows:

Authority: [TO BE INSERTED PRIOR TO FEDERAL REGISTER SUMMARY PUBLICATION]

2. Section 4.3 is amended by adding paragraph (j) to read as follows:

#### § 4.3 – Communications providers covered by the requirements of this part.

\* \* \* \* \*

(j) **Covered 988 Service Providers** are providers that provide the 988 Suicide & Crisis Lifeline with capabilities such as the ability to receive, process, or forward calls. “Covered 988 service provider” shall not include any entity that constitutes a crisis center that participates in the 988 Lifeline, or any entity that offers the capability to originate 988 calls where another service provider delivers those calls to the appropriate crisis center.

3. Section 4.5 is amended by adding paragraph (f) to read as follows:

#### § 4.5 – Definitions of outage, special offices and facilities, 911 special facilities and 988 special facilities.

\* \* \* \* \*

(f) An outage that potentially affects a 988 special facility occurs whenever there is a loss of the ability of the 988 Suicide & Crisis Lifeline to receive, process, or forward calls, potentially affecting at least 900,000 user-minutes and lasting at least 30 minutes duration.

4. Delayed indefinitely, section 4.9 is amended by revising paragraphs (a)(4), (c)(2)(iv), (e) introductory text, (e)(1)(v), (f)(4), and (g)(1)(i) to read as follows:

#### § 4.9 – Outage reporting requirements - threshold criteria.

(a) \* \* \*

(4) Potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) or (i) of this section, respectively. Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than 30 days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of § 4.11.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iv) Potentially affecting a 911 special facility (as defined in § 4.5(e)) or potentially affecting a 988 special facility (as defined in § 4.5(f)), in which case the affected facility shall be notified in the manner described in paragraph (h) or (i) of this section, respectively.

\* \* \* \* \*

(e) *Wireless*.

(1) \* \* \*

(v) That potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) or (i) of this section, respectively.

\* \* \* \* \*

(f) \* \* \*

(4) Potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) or (i) of this section, respectively. Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than 30 days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of § 4.11.

(g) \* \* \*

(1) \* \* \*

(i) Within 240 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) or (i) of this section, respectively; or

\* \* \* \* \*

5. Delayed indefinitely, section 4.9 is also amended by adding paragraph (i) to read as follows:

**§ 4.9 – Outage reporting requirements - threshold criteria.**

\* \* \* \* \*

(i) *988 Special Facility Outage Notification.* All cable, satellite, wireless, wireline, interconnected VoIP, and covered 988 service providers shall notify any official at a 988 special facility who has been designated by the affected 988 special facility as the provider's contact person(s) for communications outages at the facility of any outage that potentially affects that 988 special facility (as defined in § 4.5(f)) in the following manner:

(1) *Appropriate Contact Information.* To ensure prompt delivery of outage notifications to 988 special facilities, covered 988 service providers shall exercise special diligence to identify, maintain, and, on an annual basis, confirm current contact information appropriate for outage notification for each 988 special facility that serves areas that the service provider serves.

(2) *Content of Notification.* Covered 988 service providers' outage notifications must convey all available material information about the outage. For the purpose of this paragraph (i), "material information" includes the following, where available:

(A) An identifier unique to each outage;

(B) The name, telephone number, and email address at which the notifying 988 service provider can be reached for follow up;

(C) The name of the covered 988 service provider experiencing the outage;

(D) The date and time when the incident began (including a notation of the relevant time zone);

(E) The types of communications service(s) affected;

- (F) The geographic area affected by the outage;
- (G) A statement of the notifying covered 988 service provider's expectations for how the outage potentially affects the special facility (*e.g.*, dropped calls or missing metadata);
- (H) Expected date and time of restoration, including a notation of the relevant time zone;
- (I) The best-known cause of the outage; and
- (J) A statement of whether the message is the notifying covered 988 service provider's initial notification to the special facility, an update to an initial notification, or a message intended to be the service provider's final assessment of the outage.
- (3) *Means of Notification.* Covered 988 service providers' outage notifications must be transmitted by telephone and in writing via electronic means in the absence of another method mutually agreed upon in writing in advance by the special facility and the service provider.
- (4) *Timing of Initial Notification.* Covered 988 service providers shall provide an outage notification to a potentially affected 988 special facility as soon as possible, but no later than within 30 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage that potentially affects a 988 special facility (as defined in § 4.5(f)).
- (5) *Follow-up Notification.* Covered 988 service providers shall communicate additional material information to potentially affected 988 special facilities in notifications subsequent to the initial notification as soon as possible after that information becomes available, but providers shall send the first follow-up notification to potentially affected 988 special facilities no later than two hours after the initial contact. After that, covered 988 service providers are required to continue to provide material information to the special facilities as soon as possible after discovery of the new material information until the outage is completely repaired and service is fully restored.

## APPENDIX B

## Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline, Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, Implementation of the National Suicide Hotline Improvement Act of 2018, Notice of Proposed Rulemaking (988 Outage NPRM)* released in January 2023.<sup>2</sup> The Commission sought written public comments on the proposals in the *988 Outage NPRM*, including comments on the IRFA. Comments filed by two parties specifically addressing the IRFA are addressed below in Section B. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

**A. Need for, and Objectives of, the Final Rules**

2. According to the Centers for Disease Control and Prevention (CDC), the suicide rate in this country increased by 35% from 1999 to 2018.<sup>4</sup> In 2021, suicide was a leading cause of death in the United States for people aged 10 to 64 and the second leading cause of death among people aged 10-14 and 20-34.<sup>5</sup> Suicide claimed the lives of over 48,000 Americans in 2021, resulting in about one death every 11 minutes.<sup>6</sup> For every one person who dies by suicide annually, 316 people seriously consider suicide.<sup>7</sup> In this *Report and Order*, the Commission adopts rules and procedures to improve the reliability and resiliency of telecommunications networks nationwide and the 988 Suicide & Crisis Lifeline (988 Lifeline) specifically, so that the American public can continue to reach the 988 Lifeline without undue delay or disruption.

3. In the *Report and Order*, both originating service providers<sup>8</sup> and covered 988 service providers are required to file 988 outage reports with the Commission, in the Commission's Network Outage Reporting System (NORS). The Commission also adopts the definition for "covered 988 service providers" as those providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls. We conclude that the reporting obligations upon originating service providers and covered 988 service providers adopted in the *Report and Order* will improve the resiliency of the 988 Lifeline and ensure that the Substance Abuse and Mental Health Services Administration (SAMHSA), the

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-12, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> *Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline; Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; Implementation of the National Suicide Hotline Improvement Act of 2018*, PS Docket Nos. 23-5 and 15-80, WC Docket No. 18-336, Notice of Proposed Rulemaking, FCC 23-7, Appendix B, Initial Regulatory Flexibility Analysis (Jan. 27, 2023) (*988 Outage NPRM*).

<sup>3</sup> See 5 U.S.C. § 604.

<sup>4</sup> Holly Hedegaard, Sally C. Curtin, and Margaret Warner, *Increase in Suicide Mortality in the United States, 1999-2018*, National Center for Health Statistics (NCHS) Data Brief No. 362, at 1 (Apr. 2020), <https://www.cdc.gov/nchs/data/databriefs/db362-h.pdf>.

<sup>5</sup> Centers for Disease Control and Prevention, *Suicide Prevention*, <https://www.cdc.gov/suicide/> (last visited June 12, 2023). See also The Trevor Project, *Facts About LGBTQ Youth Suicide* (June 14, 2021), <https://www.thetrevorproject.org/resources/article/facts-about-lgbtq-youth-suicide/>.

<sup>6</sup> Centers for Disease Control and Prevention, *Facts About Suicide*, <https://www.cdc.gov/suicide/facts/index.html> (last visited June 12, 2023).

<sup>7</sup> 988 Suicide & Crisis Lifeline, *Suicide Prevention by the Numbers*, <https://988lifeline.org/by-the-numbers/> (last visited June 12, 2022).

<sup>8</sup> Originating service providers include cable, satellite, wireless, wireline, and interconnected VoIP providers and are jointly referred to as "originating service providers" or "OSPs."

Department of Veteran Affairs (VA), and the 988 Lifeline administrator have timely outage information so they can provide the public with alternative ways to access the Lifeline.<sup>9</sup> The Commission will also be able to improve 988 reliability by using this information to analyze outage trends and identify best practices to prevent and mitigate outages. The rules adopted by the Commission also require originating service providers and covered 988 service providers to notify 988 special facilities about outages that affect these facilities pursuant to notification obligations that mirror the Commission's existing 911 special facility notification requirements. In adopting these rules, the Commission designates SAMHSA, the VA, and the 988 Lifeline administrator as the 988 special facilities that must receive outage notifications. This notification requirement will allow 988 special facilities to take steps to maintain the public's access to crisis intervention centers,<sup>10</sup> including by routing calls to crisis centers not experiencing outages,<sup>11</sup> and allowing 988 callers to receive assistance faster.<sup>12</sup> Moreover, the reporting and notification requirements adopted in the *Report and Order* will help ensure that the Commission and those parties that provide life-saving crisis intervention services to people calling the 988 Lifeline receive timely and actionable information about 988 service outages that potentially affect those services' ability to meet the immediate health needs of people in suicidal crisis and mental health distress.

4. In light of the significant public safety benefits which include the capacity to save lives, mitigate, and prevent injuries, and which further the public interest, the Commission believes the actions taken in the *Report and Order* outweigh the implementation costs for service providers. We also believe implementation of the adopted requirements by cable, satellite, wireless, wireline, interconnected VoIP, and covered 988 service providers will only require minor changes to existing processes and procedures, and will not require a substantial amount of time since the 988 outage notification requirements are substantially similar to the existing notice and reporting requirements for 911 network outages.

#### **B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

5. Two commenters specifically addressed the proposed rules and policies presented in the IRFA. Vibrant agrees that the proposed rules and policies in the *988 Outage NPRM* “would have limited impact for small and medium sized businesses.”<sup>13</sup> Southern Linc argues that the Commission should “apply the 911 definitions of ‘nationwide’ and ‘non-nationwide’ providers, rather than the [Small Business Administration] standard, when assessing and evaluating the potential impact that any action it may take in this proceeding would have on smaller regional service providers.”<sup>14</sup> The Commission rejects this argument. The 988 outage reporting and notification requirements it adopts today do not place differing requirements on nationwide and non-nationwide providers, nor do any of the Commission's existing outage reporting and notification requirements (including for 911 outages) make such a distinction. For these reasons, the Commission sees no basis to agree with Southern Linc that use of Small Business Administration (SBA) size standards would confuse service providers or somehow impose further burdens on non-nationwide providers.<sup>15</sup> Additionally, Southern Linc offers no explanation of how its preferred “non-nationwide provider” impact analysis should be conducted.

#### **C. Response to Comments by the Chief Counsel for Advocacy of the Small Business**

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<sup>9</sup> The Commission is continuing to consider whether reporting and notification requirements should also be applicable to text messaging outages.

<sup>10</sup> USTelecom Comments at 5; *see also 988 Outage NPRM* at 10, para. 21.

<sup>11</sup> *See Vibrant Comments* at 3.

<sup>12</sup> *Id.*

<sup>13</sup> *Vibrant Comments* at 6.

<sup>14</sup> *Southern Linc Reply Comments* at 5-6 (citing 47 CFR § 9.10(i)(1)(iv)).

<sup>15</sup> *Southern Linc Reply Comments* at 6.



### Administration

6. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

#### **D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply**

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.<sup>16</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>17</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>18</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>19</sup>

8. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein.<sup>20</sup> First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.<sup>21</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.<sup>22</sup>

9. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>23</sup> The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.<sup>24</sup> Nationwide, for tax year 2020, there

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<sup>16</sup> 5 U.S.C. § 604(a)(4).

<sup>17</sup> *Id.* § 601(6).

<sup>18</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>19</sup> 15 U.S.C. § 632.

<sup>20</sup> *See* 5 U.S.C. § 601(3)-(6).

<sup>21</sup> *See* SBA, Office of Advocacy, “What’s New With Small Business?,” <https://advocacy.sba.gov/wp-content/uploads/2023/03/Whats-New-Infographic-March-2023-508c.pdf> (Mar. 2023)

<sup>22</sup> *Id.*

<sup>23</sup> *See* 5 U.S.C. § 601(4).

<sup>24</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C. § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. *See* Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.<sup>25</sup>

10. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>26</sup> U.S. Census Bureau data from the 2017 Census of Governments<sup>27</sup> indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.<sup>28</sup> Of this number, there were 36,931 general purpose governments (county,<sup>29</sup> municipal, and town or township<sup>30</sup>) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts<sup>31</sup> with enrollment populations of less than 50,000.<sup>32</sup> Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”<sup>33</sup>

11. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of

<sup>25</sup> See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2020 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (58,577), Region 2-Mid-Atlantic and Great Lakes Areas (175,272), and Region 3-Gulf Coast and Pacific Coast Areas (213,840) that includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

<sup>26</sup> See 5 U.S.C. § 601(5).

<sup>27</sup> See 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7”. See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

<sup>28</sup> See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also tbl.2. CG1700ORG02 Table Notes\_Local Governments by Type and State\_2017.

<sup>29</sup> See *id.* at tbl.5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

<sup>30</sup> See *id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

<sup>31</sup> See *id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes\_Special Purpose Local Governments by State\_Census Years 1942 to 2017.

<sup>32</sup> While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

<sup>33</sup> This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations tbls.5, 6 & 10.

programs on a subscription or fee basis.<sup>34</sup> The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources.<sup>35</sup> The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.<sup>36</sup> The SBA small business size standard for this industry classifies firms with annual receipts less than \$41.5 million as small.<sup>37</sup> Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year.<sup>38</sup> Of that number, 149 firms operated with revenue of less than \$25 million a year and 44 firms operated with revenue of \$25 million or more.<sup>39</sup> Based on this data, the Commission estimates that a majority of firms in this industry are small.

12. *Cable Companies and Systems (Rate Regulation)*. The Commission has developed its own small business size standard for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide.<sup>40</sup> Based on industry data, there are about 420 cable companies in the U.S.<sup>41</sup> Of these, only seven have more than 400,000 subscribers.<sup>42</sup> In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers.<sup>43</sup> Based on industry data, there are about 4,139 cable systems (headends) in the U.S.<sup>44</sup> Of these, about 639 have more than 15,000 subscribers.<sup>45</sup> Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

13. *Cable System Operators (Telecom Act Standard)*. The Communications Act of 1934, as amended, contains a size standard for a "small cable operator," which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed

<sup>34</sup> See U.S. Census Bureau, *2017 NAICS Definition, "515210 Cable and Other Subscription Programming,"* <https://www.census.gov/naics/?input=515210&year=2017&details=515210>.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> See 13 CFR § 121.201, NAICS Code 515210 (as of 10/1/22, NAICS Code 516210).

<sup>38</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515210, <https://data.census.gov/cedsci/table?y=2017&n=515210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. The US Census Bureau withheld publication of the number of firms that operated for the entire year to avoid disclosing data for individual companies (see Cell Notes for this category).

<sup>39</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in all categories of revenue less than \$500,000 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>40</sup> 47 CFR § 76.901(d).

<sup>41</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

<sup>42</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022); S&P Global Market Intelligence, *Multichannel Video Subscriptions, Top 10* (April 2022).

<sup>43</sup> 47 CFR § 76.901(c).

<sup>44</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

<sup>45</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022).

\$250,000,000.”<sup>46</sup> For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 677,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice.<sup>47</sup> Based on industry data, only six cable system operators have more than 677,000 subscribers.<sup>48</sup> Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.<sup>49</sup> Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

14. *Incumbent Local Exchange Carriers.* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers<sup>50</sup> is the closest industry with an SBA small business size standard.<sup>51</sup> The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>52</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.<sup>53</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>54</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 1,212 providers that reported they were incumbent local exchange service providers.<sup>55</sup> Of these providers, the Commission estimates that 916 providers have 1,500 or fewer

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<sup>46</sup> 47 U.S.C. § 543(m)(2).

<sup>47</sup> *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (CSB 2001) (2001 Subscriber Count PN). In this Public Notice, the Commission determined that there were approximately 67.7 million cable subscribers in the United States at that time using the most reliable source publicly available. *Id.* We recognize that the number of cable subscribers changed since then and that the Commission has recently estimated the number of cable subscribers to traditional and telco cable operators to be approximately 58.1 million. *See Communications Marketplace Report*, GN Docket No. 20-60, 2020 Communications Marketplace Report, 36 FCC Rcd 2945, 3049, para. 156 (2020) (2020 Communications Marketplace Report). However, because the Commission has not issued a public notice subsequent to the 2001 Subscriber Count PN, the Commission still relies on the subscriber count threshold established by the 2001 Subscriber Count PN for purposes of this rule. *See* 47 CFR § 76.901(e)(1).

<sup>48</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022); S&P Global Market Intelligence, *Multichannel Video Subscriptions*, Top 10 (April 2022).

<sup>49</sup> The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority’s finding that the operator does not qualify as a small cable operator pursuant to § 76.901(e) of the Commission’s rules. *See* 47 CFR § 76.910(b).

<sup>50</sup> *See* U.S. Census Bureau, 2017 NAICS Definition, “517311 Wired Telecommunications Carriers,” <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>51</sup> *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>52</sup> *Id.*

<sup>53</sup> *See* U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>54</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>55</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

employees.<sup>56</sup> Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

15. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers<sup>57</sup> is the closest industry with an SBA small business size standard.<sup>58</sup> Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.<sup>59</sup> The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>60</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>61</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>62</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were fixed local exchange service providers.<sup>63</sup> Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.<sup>64</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

16. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.<sup>65</sup> This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.<sup>66</sup> Providers of Internet services (e.g. dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.<sup>67</sup> The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million

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<sup>56</sup> *Id.*

<sup>57</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>58</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>59</sup> Fixed Local Exchange Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

<sup>60</sup> *Id.*

<sup>61</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>62</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>63</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>64</sup> *Id.*

<sup>65</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517919 All Other Telecommunications,"* <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*



or less as small.<sup>68</sup> U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.<sup>69</sup> Of those firms, 1,039 had revenue of less than \$25 million.<sup>70</sup> Based on this data, the Commission estimates that the majority of “All Other Telecommunications” firms can be considered small.

17. *Satellite Telecommunications.* This industry comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.”<sup>71</sup> Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small.<sup>72</sup> U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.<sup>73</sup> Of this number, 242 firms had revenue of less than \$25 million.<sup>74</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services.<sup>75</sup> Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees.<sup>76</sup> Consequently, using the SBA’s small business size standard, a little more than half of these providers can be considered small entities.

18. *Telecommunications Resellers.* The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households.<sup>77</sup> Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.<sup>78</sup> Mobile virtual network operators (MVNOs) are included in this industry.<sup>79</sup> The SBA small business size standard for this industry classifies a business as

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<sup>68</sup> See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

<sup>69</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>70</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>71</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517410 Satellite Telecommunications,” <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>72</sup> See 13 CFR § 121.201, NAICS Code 517410.

<sup>73</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>74</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>75</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>76</sup> *Id.*

<sup>77</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517911 Telecommunications Resellers,” <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

small if it has 1,500 or fewer employees.<sup>80</sup> U.S. Census Bureau data for 2017 show that 1,386 firms operated in this industry for the entire year.<sup>81</sup> Of that number, 1,375 firms operated with fewer than 250 employees.<sup>82</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 666 providers that reported they were engaged in the provision of local or toll resale services.<sup>83</sup> Of these providers, the Commission estimates that 640 providers have 1,500 or fewer employees.<sup>84</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

19. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.<sup>85</sup> Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband Internet services.<sup>86</sup> By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.<sup>87</sup> Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.<sup>88</sup>

20. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>89</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>90</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>91</sup> Additionally, based on Commission data in the 2022 Universal Service

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<sup>80</sup> See 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

<sup>81</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIIRM, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFIIRM&hidePreview=false>.

<sup>82</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>83</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>84</sup> *Id.*

<sup>85</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> Fixed Local Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, and Other Local Service Providers. Local Resellers fall into another U.S. Census Bureau industry group and therefore data for these providers is not included in this industry.

<sup>89</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>90</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIIRM, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIIRM&hidePreview=false>.

<sup>91</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services.<sup>92</sup> Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.<sup>93</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

21. *Wireless Communications Services.* Wireless Communications Services (WCS) can be used for a variety of fixed, mobile, radiolocation, and digital audio broadcasting satellite services. Wireless spectrum is made available and licensed for the provision of wireless communications services in several frequency bands subject to Part 27 of the Commission's rules.<sup>94</sup> Wireless Telecommunications Carriers (except Satellite)<sup>95</sup> is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>96</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>97</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>98</sup> Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

22. The Commission's small business size standards with respect to WCS involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in WCS. When bidding credits are adopted for the auction of licenses in WCS frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in the designated entities section in Part 27 of the Commission's rules for the specific WCS frequency bands.<sup>99</sup>

23. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

24. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide

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<sup>92</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>. <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

<sup>93</sup> *Id.*

<sup>94</sup> See 47 CFR §§ 27.1 – 27.1607.

<sup>95</sup> See U.S. Census Bureau, 2017 NAICS Definition, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>96</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>97</sup> See U.S. Census Bureau, 2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFI, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePrevious=false>.

<sup>98</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>99</sup> See 47 CFR §§ 27.201 – 27.1601. The Designated entities sections in Subparts D – Q each contain the small business size standards adopted for the auction of the frequency band covered by that subpart.



communications via the airwaves.<sup>100</sup> Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services.<sup>101</sup> The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>102</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.<sup>103</sup> Of that number, 2,837 firms employed fewer than 250 employees.<sup>104</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services.<sup>105</sup> Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.<sup>106</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

25. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable industry with an SBA small business size standard is Wireless Telecommunications Carriers (except Satellite).<sup>107</sup> The size standard for this industry under SBA rules is that a business is small if it has 1,500 or fewer employees.<sup>108</sup> For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year.<sup>109</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>110</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 331 providers that reported they were engaged in the provision of cellular, personal communications services, and specialized mobile radio services.<sup>111</sup> Of these providers, the Commission estimates that 255 providers have 1,500 or fewer employees.<sup>112</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

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<sup>100</sup> See U.S. Census Bureau, *2017 NAICS Definition, 517312 Wireless Telecommunications Carriers (except Satellite)*, <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>101</sup> *Id.*

<sup>102</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>103</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>104</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>105</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>106</sup> *Id.*

<sup>107</sup> See U.S. Census Bureau, *2017 NAICS Definition, 517312 Wireless Telecommunications Carriers (except Satellite)*, <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>108</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>109</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>110</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>111</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>112</sup> *Id.*

26. *Wireless Carriers and Service Providers.* Wireless Telecommunications Carriers (*except Satellite*) is the closest industry with a SBA small business size standard applicable to these service providers.<sup>113</sup> The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>114</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>115</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>116</sup> Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services.<sup>117</sup> Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees.<sup>118</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

**E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

27. The *Report and Order* adopts new or additional reporting, recordkeeping, notice and other compliance requirements for small entities required to report outages affecting 988 Lifeline services. Specifically, the rules require originating service providers and covered 988 service providers to report to the Commission and provide notice to 988 special facilities about voice service outages that potentially affect 988 special facilities. These service providers are required to: (1) report outages that potentially affect 988 special facilities using NORS, and follow processes and procedures similar to the Commission's existing reporting for outages that potentially affect 911, including the requirement to submit notifications, initial reports, and final reports within a specified amount of time and with specified content; (2) provide notice of 988 outages that potentially affect a 988 special facility to the designated 988 special facilities; and (3) exercise special diligence to identify, maintain, and confirm up-to-date contact information for 988 special facilities on an annual basis.

28. The Commission is not currently in a position to determine whether the rules adopted in the *Report and Order* will require small entities to hire attorneys, engineers, consultants, or other professionals to comply. We note, however, that some originating service providers and covered 988 service providers are already subject to compliance with outage reporting obligations that would facilitate their ability to comply, and may reduce any compliance burdens associated with the adopted 988 outage reporting and notification requirements. For example, some originating service providers and covered 988 service providers already must comply with the Commission's rules on network outage reporting and 911 outage reporting. In addition, many service providers are likely to already have documented procedures for notifying affected facilities of outages that potentially affect them. For those that do not, Alliance for Telecommunications Industry Solutions (ATIS) Network Reliability Steering Committee

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<sup>113</sup> See U.S. Census Bureau, *2017 NAICS Definition, 517312 Wireless Telecommunications Carriers (except Satellite)*, <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>114</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>115</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>116</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>117</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

<sup>118</sup> *Id.*

(NRSC) Task Force documents can serve as a useful guide to help small entities comply with the requirements.<sup>119</sup>

29. The Commission expects that originating service providers already report the majority of outages that affect the completion of 988 calls to the Commission under our existing outage reporting requirements. For example, originating service providers are already required to report voice service outages in NORS, regardless of a call's destination.<sup>120</sup> As a result, providers that are complying with this existing outage reporting requirement will only need to take nominal action to report voice telephony outages that potentially affect the 988 Lifeline. Below we discuss the potential costs of the reporting requirements.

30. In the *Report and Order*, we determine that the rules we adopt concerning the reporting in NORS of outages that potentially affect 988 special facilities and the notifying of 988 special facilities about outages will result in an industry-wide one-time compliance cost of \$56,000, and an annual recurring cost which is revised from our estimate in the *988 Outage NPRM*, of \$1,355,000.<sup>121</sup> Outages that potentially affect 988 special facilities that will be reportable in NORS fall into two categories: (1) outages experienced by the covered 988 service providers that are responsible for providing the 988 Lifeline with the capability to receive, process, or forward 988 calls, and (2) outages experienced by originating service providers that deliver calls messages to the Lifeline. Consistent with the estimate stated in the *988 Outage NPRM*, which no commenter challenged, we assume that one covered 988 service provider experiences a maximum of one reportable outage per month, and estimate an annual compliance cost for that one covered 988 service provider of \$1,000.<sup>122</sup>

31. With regard to the requirements for small and other providers to maintain updated contact information for 988 special facilities and to notify those facilities about outages that affect them, we estimate that the costs of compliance will also be relatively low when compared to the benefits to the public. In accordance with the *988 Outage NPRM*, we estimate that there will be a one-time industry-wide cost of \$56,000 to create an e-mail survey to biannually solicit 988 special facility contact information.<sup>123</sup> Further, we expect costs arising from the creation or updating of outage notification templates will be incidental costs, since the 988 outage notification requirements that we adopt in the *Report and Order* share the same content and timing as the 911 outage notification requirements with which service providers already comply. We estimate maximum annually recurring costs of \$1,354,000, which consist of \$1,326,000 for notifying 988 special facilities of outages that potentially affect them pursuant to the standards adopted in the *Report and Order*,<sup>124</sup> and \$28,000 for soliciting appropriate

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<sup>119</sup> See, e.g., Alliance for Telecommunications Industry Solutions, Service Providers: Outage Reporting Structure and Potential Types of 9-1-1 Outages (June 28, 2018), <https://www.atis.org/committees-forums/nrsc/>.

<sup>120</sup> 47 CFR §§ 4.9(a)(1), (c)(2)(ii), (e)(1)(ii), (f)(1), (g)(1)(ii); Verizon Comments at 3 (“[B]ecause the rules already apply to the major originating access network outages that affect 988 dialing, new rules for originating service providers would be redundant.”).

<sup>121</sup> See *988 Outage NPRM* at 38. The estimate for the maximum annually recurring costs was \$1,354,000.

<sup>122</sup> See *988 Outage NPRM* at 15, para. 37, n.80 (estimating a maximum of two hours total time to submit all required reports at a cost of \$43 per hour for a total cost estimate of \$1000  $\approx$  \$43/hr  $\times$  2 hrs  $\times$  one reportable outage per month  $\times$  12 months).

<sup>123</sup> See *988 Outage NPRM* at 16, para. 38, n.81 (estimating that for each of 3,124 providers, one worker earning \$36/hour would spend ½ hour for a total of approximately \$56,000). In its comments, SAMHSA and Vibrant both note that the 988 Lifeline administrator maintains an accurate and updated list of contacts at each crisis center and thus the estimate \$56,000 survey cost may be an overestimate. SAMHSA Comments at 1; Vibrant Comments at 4. However, as we are not requiring 988 outage notifications to be sent to individual crisis centers at this time, we do not believe the existence of this list would lower the estimated costs associated with the development of the survey.

<sup>124</sup> See *988 Outage NPRM* at 16, para. 38, n.82 (estimating that a communications equipment operator, earning \$34/hour, would spend a total of 1 hour per outage to send out two notifications for each of an estimated 39,000

(continued....)

contact information for outage notification from 988 special facilities.<sup>125</sup> Since we require that the same three special facilities (SAMHSA, the VA, and the 988 Lifeline administrator) be notified regardless of the geographic area affected by the outage, we do not expect that any costs will be incurred related to identifying the 988 special facilities that could potentially be affected by an outage.

32. We note that in the *988 Outage NPRM*, we sought comments from the parties in the proceeding and requested cost and benefit information to help the Commission identify and evaluate relevant matters for small entities, however we did not receive any specific cost estimates. The Commission disagrees with Southern Linc’s argument that the rules adopted in the *Report and Order* place unnecessary regulatory burdens on smaller non-nationwide providers, which they assert will be strained due to the same personnel being responsible for both reporting and responding to outages, as well as complying with other regulatory requirements.<sup>126</sup> As explained above, the significant public safety benefits arising from the requirements we adopt today outweigh their associated burdens, particularly since the cost of these requirements is likely to be relatively low due to commonalities with existing outage reporting requirements. The rule changes adopted in the *Report and Order* will enable 988 special facilities to accelerate the public’s ability to reach the 988 Lifeline during an outage, thereby reducing the probability of lives being lost during such an outage. The outages experienced by smaller providers with fewer subscribers would generally take longer to meet the required reporting thresholds, which would effectively provide more time to investigate an outage before it is required to be reported. Southern Linc further accuses the Commission of “assuming that all employees of a provider’s affiliates – no matter how distant – should be considered ‘available resources’ to support the provider’s compliance efforts, regardless of whether the employees of those affiliates have any responsibility to support wireless network operations.”<sup>127</sup> However, the Commission does not make this assumption. If it were assumed that service providers already had available staff to implement the requirements adopted in the *Report and Order*, then the costs to service providers would be estimated to be zero. To the contrary, the cost estimates are grounded in the additional labor hours and wages needed to comply with the *Report and Order*’s requirements.

#### **F. Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered**

33. The RFA requires an agency to provide, “a description of the steps the agency has taken to minimize the significant economic impact on small entities...including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.”<sup>128</sup>

34. The Commission continues to adopt measures to facilitate the reliability of the 988 Lifeline network and meet its public safety obligations for oversight of the integrity of the 988 communications infrastructure by implementing measures to ensure that 988 special facilities can expect consistent and timely outage notifications whenever there is an outage that potentially affects 988 Lifeline service. While doing so, the Commission is mindful that small and other covered 988 and originating service providers may incur costs which we weighed against the public interest benefits of the new

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outages, for a total of  $\$1,326,000 = \$34/\text{hour} \times 1 \text{ hour} \times 39,000$ ). We expect that our estimate of the cost will reduce significantly over time as the Commission collects better data on the actual number of 988 outages experienced annually.

<sup>125</sup> See *988 Outage NPRM* at 16-17, para. 38, n.83 (estimating that for each of 3,124 providers, one worker earning \$36/hour would spend ¼ hour for a total of approximately \$28,000).

<sup>126</sup> Southern Linc Reply Comments at 5.

<sup>127</sup> *Id.* at 6.

<sup>128</sup> 5 U.S.C. § 604(a)(6).

obligations and determined the benefits outweigh the costs. The specific steps the Commission has taken to minimize costs and reduce the economic impact for small entities and alternatives considered are discussed below.

35. The adoption of our proposal to require entities that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls to report outages that potentially affect the 988 special facilities in NORS<sup>129</sup> closely tracks the requirements applicable to 911 outage reporting which should minimize some economic impact of compliance for small entities. For example, the *Report and Order* requires the use of NORS for 988 outage reporting, which is already used for 911 outage reporting. The *Report and Order* also adopts thresholds to trigger the 988 outage reporting requirements that are similar to the 911 outage duration and user minute thresholds. Specifically reportable outages that potentially affect a 988 special facility are events that result in the loss of the ability of the 988 Lifeline to receive, process, or forward calls, potentially affecting at least 900,000 user-minutes and lasting at least 30 minutes duration.<sup>130</sup> Therefore, to the extent small entities have or will implement the 911 outage reporting requirements already adopted by the Commission, compliance with 988 reporting requirements should not impose any significant additional costs.

36. We considered but reject arguments that it is not necessary for the FCC to provide the parties responsible for operation of the 988 Lifeline with timely and actionable information about outages that occur after those communications reach the Lifeline,<sup>131</sup> and reporting requirements are not necessary because SAMHSA and the VA already have visibility into outages that occur after calls reach the 988 Lifeline.<sup>132</sup> Requiring small and other covered 988 service providers to report outages is appropriate because the services they offer, which ensure that calls are routed to the correct destination after a call reaches the 988 Lifeline, are essential to the Lifeline's availability.<sup>133</sup> Similarly, we considered but did not agree that it is premature for the Commission to apply 988 outage reporting requirements to OSPs.<sup>134</sup> Originating service providers are critical in providing 988 service. Thus, cable, satellite, wireless, wireline, and interconnected VoIP providers as well as 988 service providers will be required to report both voice service 988 outages in NORS. The adopted rules are the same for both covered 988 service providers and originating service providers which should streamline the requirements and reduce the burden of reporting for small and other providers.

37. Our decision to require 988 outage reports be filed with the Commission in NORS consistent with the current 911 requirements for outage report filing processes and timing, is another step that should minimize the impact of the adopted requirements for small entities. Small entities and other industry participants are already familiar with NORS. Moreover, industry participants who support the use of NORS view it as a less burdensome approach which will reduce the implementation costs

<sup>129</sup> 988 Outage NPRM at 8-9, paras. 13-14.

<sup>130</sup> We note that "loss of the ability of the 988 Lifeline to receive . . . calls" includes outages in originating service providers' networks that prevent successful transmission of calls to the Lifeline.

<sup>131</sup> CX360 Comments at 3.

<sup>132</sup> CX360 Reply Comments at 5.

<sup>133</sup> See T-Mobile Comments at 3-4 ("[T]his proceeding was initiated in response to a service outage experienced by Intrado, the company that provides telecommunications services to the 988 Lifeline, that rendered the 988 service inaccessible nationwide. . . . Simply put, outage reporting by 988 CSPs is appropriate because there is a direct link between services provided by 988 CSPs and the availability of the 988 Lifeline."); CTIA Comments at 3-4; AT&T Comments at 6 ("Because Covered 988 Service Providers provide service directly to the agencies overseeing the 988 Lifeline . . . , they would be in a better position than Originating Service Providers to notify the FCC of outages impacting 988, because they actually offer special services that are specific to the provision of the 988 Lifeline."); Verizon Comments at 2 ("The scope of the proposed codified rule is appropriately focused on 'Covered 988 providers' . . . . These are the entities that provide the 988 Lifeline with service through direct contractual arrangements, and are directly accountable to the 988 Lifeline and the local help centers it supports.").

<sup>134</sup> CTIA Comments at 5; Southern Linc Reply Comments at 4.

associated with 988 outage reporting, and will be significantly less costly and burdensome than implementing a new or different reporting system.”<sup>135</sup> In addition, reporting in NORS “will streamline the reporting process and allow [small and other] providers to devote maximum attention to addressing the outage itself and getting service back up and running, rather than diverting time and resources to more complex or cumbersome reporting requirements.”<sup>136</sup> To further minimize the costs of reporting for small and other providers, the streamlined process will include the addition of a checkbox to NORS for reporting providers to indicate whether a reported outage potentially affects a 988 special facility.

38. We gave consideration to an alternative proposal to allow reporting by email instead of NORS reporting,<sup>137</sup> but declined to allow email reporting for several reasons impacting both the efficiency and effectiveness of 988 reporting. As an initial matter, allowing outage reports to be submitted via e-mail would create opportunities for inconsistently styled filings with incomplete or confusing information which would lead to Commission staff taking up providers’ time with numerous calls and questions about their filings. The submission of reports by e-mail would also greatly diminish the Commission’s ability to record historic outage data, analyze outage trends, and share outage information with federal, state, Tribal, and territorial agencies. Lastly, we do not believe that allowing email reporting would reduce the administrative burdens for small and other providers, and could actually increase their recordkeeping burdens and in-turn increase the overall compliance burden.

39. The Commission additionally considered but declined to require local crisis centers to be among those 988 special facilities that receive outage notifications recognizing that such a requirement would place significant burdens on the 988 Lifeline during outages. Similarly, we declined to require that PSAPs be notified about 988 outages, which we concluded would be too administratively burdensome for each small and other service provider to continuously track and update the list of PSAPs across the country that have opted into receiving 988 outage notifications. Further, we declined to require that notifications should include contact information for those callers that failed to connect to the 988 Lifeline since the outage began based on our conclusion that more study is needed to determine whether it is technically feasible. A further step we took to minimize the economic impact for small entities includes allowing additional time for compliance for those covered 988 service providers that may not have existing NORS filing or outage notification obligations. These covered 988 service providers have an additional six months to develop the capabilities and processes necessary to comply with rules adopted in the *Report and Order*.<sup>138</sup> In addition, as we allow for 911 notification, we also allow covered 988 service providers, originating service providers, and 988 special facilities to mutually agree to alternate means of outage notification.

#### **G. Report to Congress**

40. The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.<sup>139</sup> In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>140</sup>

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<sup>135</sup> ATIS Comments at 5.

<sup>136</sup> USTelecom Comments at 3. *See also* USTelecom Reply Comments at 3; Veterans Crisis Line Comments at 1 (“988 reporting requirements should be consistent with the 911 reporting requirements. . . . Service providers should report to the NORS system.”).

<sup>137</sup> CX360 Reply Comments at 8.

<sup>138</sup> *See* CX360 Reply Comments at 8.

<sup>139</sup> *See* 5 U.S.C. § 801(a)(1)(A).

<sup>140</sup> *See* 5 U.S.C. § 604(b).

**STATEMENT OF  
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline*, PS Docket No. 23-5; *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 15-80; *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Report and Order (July 20, 2023)

It was a year ago this week that the 988 hotline went into effect. Thanks to the work of this agency, anyone, anywhere in this country can call or text this easy-to-remember, three-digit number for the Suicide and Mental Health Crisis Lifeline at any time.

The numbers show the early success of our efforts. During the past year, we saw a nearly 50 percent increase in the number of calls to 988 when compared to the ten-digit number that had been used for this lifeline in the past. And texting—functionality I insisted we add to 988—has proven even more popular than calls. All told, there have been five million people who have reached out to 988 in the last year.

The numbers demonstrate how deep the need is for this service. Because those are five million people who found a place to turn, someone to listen, and a way to receive support.

This week I visited with the Latin American Youth Center in Washington to talk about 988. This is an organization that helps young people transition to adulthood. The community they work with is low-income and often unhoused. One of the intake managers told me nearly all of the young people she signs up for services have used this number—some multiple times.

This week I also spoke with The Trevor Project and Whitman-Walker Institute about 988 and the communities they serve. LGBTQ youth are four times more likely to attempt suicide than their heterosexual peers—not because they are inherently more prone to suicide because of their orientation or gender identity but because of how they are mistreated and stigmatized in society. Watch the cruelty of the discourse in our country right now. If we don't find a way to stop it, these numbers will grow.

These discussions were a reminder that when it comes to mental health in this country, we have real work to do. Remember also that great programs like 988 do not thrive without continuous attention and care. At the Federal Communications Commission we commit to that care today—and doing our part.

First, in this order we take steps to make sure 988 is reliable. In December of last year, the hotline experienced a brief nationwide calling outage. Today, we establish rules that require reporting and notification in the event of any future 988 outage, just like we require with 911. That means any hotline outage will be recorded in the Network Outage Reporting System and this information will be shared directly with the Department of Health and Human Services, the Department of Veterans Affairs, and the 988 administrator. Like with 911, it is vital that any problems with 988 are shared fast with the right people—so we understand what went wrong and can make it right.

Second, we know we have work to do to continue to publicize the new, three-digit hotline. I hope my colleagues will consider visits to do so this September during National Suicide Prevention Week and throughout the year. We will be happy to help each of you make this happen.

Third, we are working with our partners at the Department of Health and Human Services, and specifically the Substance Abuse and Mental Health Services Administration, to find ways to better connect people who reach out to 988 to resources in the communities where they actually make that call

or text. Right now, we have underway a trial that tests routing 988 calls of those in crisis to receive care where they are rather than based on area code. We are mindful that this is not just a technical matter; because when it comes to healthcare there are vitally important issues with privacy and security and as we develop technical solutions, we want experts in mental health to work with us every step of the way. And we are making progress.

Thank you to those responsible for this effort, including Brenda Boykin, John Chapa, Rochelle Cohen, John Evanoff, David Furth, Amanda Groccia, Shabbir Hamid, Ryan Hedgpeth, Debra Jordan, William Kang, Nicole McGinnis, Erika Olsen, Austin Randazzo, Tara Shostek, and Rachel Wehr from the Public Safety and Homeland Security Bureau; Heather Hendrickson, Michelle Sclater, and Christi Shewman from the Wireline Competition Bureau; Stacy Jordan and Aleks Yankelevich from the Office of Economics and Analytics; William David Wallace from the Consumer and Governmental Affairs Bureau; Matthew Warner from the Wireless Telecommunications Bureau; Jeremy Marcus, Ryan McDonald, Victoria Randazzo, and Shana Yates from the Enforcement Bureau; Deborah Broderon, Douglas Klein, Marcus Maher, Anjali Singh, Chin Yoo, and Bill Richardson from the Office of General Counsel; and Joy Ragsdale and Chana Wilkerson from the Office of Communications Business Opportunities.



**STATEMENT OF  
COMMISSIONER GEOFFREY STARKS**

RE: *Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline*, PS Docket No. 23-5; *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket No. 15-80; *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336; Report and Order (July 20, 2023).

Five million. That's the number of calls, texts, and chats that the Suicide and Crisis Lifeline has received in just a year, since we required that the Lifeline be reachable by an easy-to-remember three-digit number: 988.<sup>1</sup>

Five million. Behind that number are people – young and old; men, women, and children; veterans; living in cities and rural areas – reaching out in their darkest hour. And more people than ever before. Last year's number reflects a 35 percent increase compared to when the Lifeline was only reachable via a 10-digit number.

Five million. Increased usage is no doubt a metric of success, but we cannot slow down when it comes to providing potentially life-saving services. I'm proud of our telecom community for not taking its foot off the gas here. There was an outage to the 988 Lifeline in December 2022. In January 2023 we proposed rules to ensure that the Commission, our federal partners at the Substance Abuse and Mental Health Services Administration and the Department of Veterans Affairs, and the 988 administrator would be swiftly notified of any subsequent outage, so that people needing to reach the Lifeline could be re-directed and re-routed to alternate channels. Today, six months later, we adopt those rules. That follows the commendable pace that the FCC set – and our providers followed – in establishing 988 and text-to-988.

There is still work to do. Awareness of the Lifeline, and the service it provides, must increase.<sup>2</sup> Wait times for those contacting the Lifeline have dropped tremendously in the last year, and stakeholders will need to work hard to ensure that an increase in awareness does not reverse this trend. As always, in cross-cutting issues like this, I am glad to see lawmakers and advocates working together to serve the people, and I am proud of the FCC's role in doing so as well.

Thank you to the Commission staff who worked on this item, and who have worked on our steady stream of 988 items over the last few years. Five million. There's a lot behind that number, and you've played an important role.

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<sup>1</sup> NPR, *988 mental health crisis line gets 5 million calls, texts and chats in first year* (July 15, 2023), <https://www.npr.org/sections/health-shots/2023/07/15/1187862144/988-mental-health-crisis-line-gets-5-million-calls-texts-and-chats-in-first-year>. See also KKF, *Taking a Look at 988 Suicide & Crisis Lifeline Implementation One Year After Launch* (July 14, 2023), <https://www.kff.org/other/issue-brief/taking-a-look-at-988-suicide-crisis-lifeline-implementation-one-year-after-launch/>.

<sup>2</sup> Pew Charitable Trusts, *Most U.S. Adults Remain Unaware of 988 Suicide and Crisis Lifeline* (May 23, 2023), <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/05/23/most-us-adults-remain-unaware-of-988-suicide-and-crisis-lifeline>.